

# CONFERENCE PROCEEDING

INTERNATIONAL HYBRID CONFERENCE ON

## Emerging Research in Development, Sustainability, and Human Rights

4-5 July 2024

at Montien Hotel Surawong, Bangkok & Online

# **International Hybrid Conference on Emerging Research in Development, Sustainability, and Human Rights**

The international virtual conference on emerging research in politics, development, and human rights aims to provide a platform for graduate students, researchers and others to contribute present and discuss research responding to emerging critical issues in Asia and beyond. The world faces severe political, environmental, technological, and social problems which are worsening. In many sectors, such as politics, development, and rights, research is critical to better understand these problems and how to respond to them.

The region faces increasing vulnerabilities such as exacerbated social and economic problems, democratic backsliding, increasing militarization, increase in conflicts, the threats posed by new technologies such as AI, heightening inequalities, and the rise of authoritarianism and populism. Marginalized groups in particular face increased vulnerabilities.

Papers from a variety of sectors will address the numerous issues faced today, with a focus on Southeast Asia, and concerns around development, human rights, and democracy.

## **Themes and Sub-themes**

The major themes of the conference revolve around politics, development, SDG and human rights. The papers presented in the conference were also divided into the following sub-themes:

|                   |                               |
|-------------------|-------------------------------|
| Children          | Gender and Sexuality          |
| Covid-19          | Gig economy                   |
| Culture           | Myanmar                       |
| Democracy         | Non-citizens and migration    |
| Disasters         | Peace                         |
| Discrimination    | Police and security           |
| Divided societies | Youth                         |
| Environment       | Sustainable Development Goals |

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# INVESTIGATING THE POTENTIAL OF THAI UNIVERSITIES TO REDUCE EDUCATIONAL INEQUALITY IN CHINA

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## Abstract

Educational inequality is a significant issue facing China, especially in higher education. The need for more opportunities for students to enter higher education hinders their self-development and challenges SDG 4 Quality Education. To seek more opportunities for higher education, many Chinese students choose to study in Thailand. However, existing research still needs to fully explore whether studying in Thailand can reduce Chinese students' difficulties in entering higher education and improve education, thereby alleviating educational inequality in China. This study adopts a qualitative approach, through content analysis and systematic analysis of 50 Chinese students' learning experiences in Thailand on the "XiaoHongShu" platform, to deeply understand the impact of studying in Thailand on the improvement of Chinese students' education and explore the role of Thai universities in alleviating educational inequality in China. The study found that Thai universities effectively meet the needs of Chinese students in terms of degree recognition, future development support, language ability improvement, and international vision expansion. By providing affordable and global education, Thai universities not only provide Chinese students with more opportunities for further study and improve their education but also help their future personal development. This opportunity provides students from different backgrounds with fairer educational opportunities, helps alleviate educational inequality in China, and promotes the realization of SDG 4 Quality Education.

**Keywords:** Educational Inequality; Higher Education; China ; Thailand ; SDG 4 Quality Education

## Introduction

Educational inequality is a significant problem facing China, especially in higher education (Davey et al., 2007). First, the number of higher education institutions in China cannot meet the massive demand for further education. In 2023, the number of applicants for the college entrance examination in China reached 12.91 million. Still, the admission rate of key universities was only about 6 percent. The admission rate of graduate and doctoral students was also declining (Ministry of Education of the People's Republic of China, 2023), making many students need help to access higher education opportunities.

According to Bourdieu's (1986) cultural capital theory, educational inequality stems from differences in socioeconomic status and cultural capital (Wang, 2020). China's high-quality educational resources are mainly concentrated in developed regions (Yang et al., 2014), such as Beijing and Shanghai, which have more educational resources and opportunities for further education, thanks to superior economic conditions and policy support (Fu & Ren, 2010). On the contrary, students in underdeveloped regions face immense

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<sup>1</sup> Student of MA in Social Innovation and Sustainability, Thammasat University, Thailand. This paper is part of a thesis entitled "Investigating the Potential of Thai Universities to Reduce Educational Inequality in China."

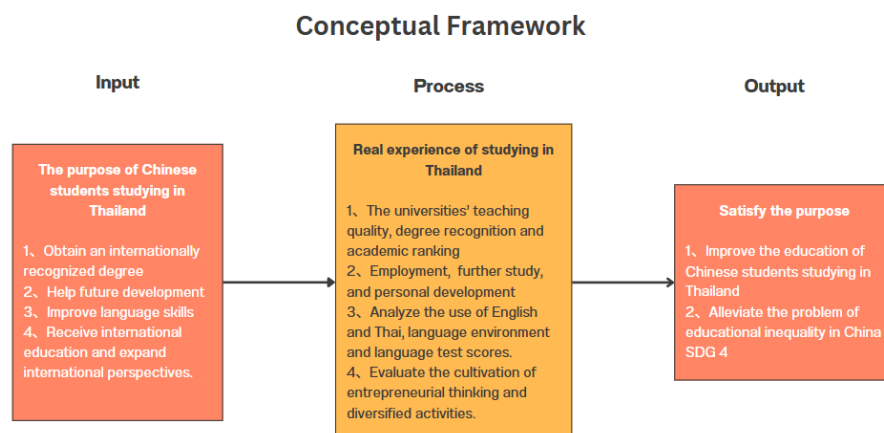
pressure to enter higher education and fewer opportunities due to the need for more high-quality educational resources and support for further education.

In addition, differences in family background also significantly affect students' opportunities to obtain higher education (Roberts & Hannum, 2018). Families with high education and superior economic conditions can invest more in their children's education, such as cram universities and extracurricular tutoring, thereby improving their competitiveness in the college entrance examination and graduate and doctoral examinations. Families with poor economic conditions find it difficult to afford additional education expenses (Guo et al., 2019), which disadvantages their children in further education. Due to economic, policy, and family reasons, many students find it challenging to obtain high-quality educational resources in the already scarce opportunities for further education, face difficulties in further education, limit personal development, and hinder the realization of SDG 4. Therefore, exploring new higher education opportunities is vital to alleviate this situation.

Thai universities have brought new opportunities to alleviate educational inequality in China. Chinese students are the largest group of international students in Thailand, more than twice the number of the second largest group (Matichon Online, 2023). However, whether studying in Thailand can reduce the difficulties of Chinese students in further education and improve their educational experience, thereby alleviating educational inequality in China, there still needs to be more research in this area. Therefore, it is urgent to explore further the role of Thai higher education in improving the education of Chinese students and achieving educational equity.

### Conceptual framework

The research approach (Figure 1: Conceptual Framework) is divided into three main parts: input, process, and output. The input part describes the four primary purposes of Chinese students studying in Thailand: obtaining an internationally recognized degree, helping future development, improving language skills, receiving international education, and expanding international perspectives. The process part details the experience of students studying in Thailand, including the quality of education, degree recognition, employment and further study, English and Thai language environment, and the cultivation of innovative thinking. The output shows that these experiences have achieved the purpose of students' study abroad, specifically in terms of improving Chinese students' education and alleviating educational inequality in China (Goal 4).



(Figure 1: Conceptual framework)

## Methodology

This study adopts a qualitative research method to analyze the study abroad experience of 50 Chinese students studying in Thailand through content analysis of social media posts on the "XiaoHongShu" platform. The study evaluates whether students meet their initial study abroad purposes, including obtaining an internationally recognized degree, helping future development, improving language skills, receiving international education, and expanding international perspectives. It also explores whether studying in Thailand improves Chinese students' education and explores Thai universities' role in alleviating China's educational inequality (SDG 4).

The purpose of studying abroad for Chinese students is broken down into the following evaluation indicators:

**Obtain an internationally recognized degree:** evaluate teaching quality, degree recognition, and academic ranking.

**Help future development:** examine employment rate, further study, and personal development.

**Improve language skills:** analyze the use of English and Thai, language environment, and language test scores.

**Receive international education and expand international horizons:** evaluate the cultivation of innovative thinking and diversified activities.

## Results

The research results show that Thailand's higher education effectively meets the needs of Chinese students. Among the 50 students, 43 are satisfied with the degree recognition, 36 are satisfied with future development, 40 are satisfied with language skills. Forty-five students are satisfied with the expansion of the international vision. The results show that Thailand's higher education system is highly satisfied with international recognition, future development support, language ability improvement, and international vision expansion.

## Discussion

### *Degree recognition*

One of the primary purposes of Chinese students studying in Thailand is to obtain an internationally recognized degree. However, there are significant differences in the degree recognition of different universities. For example, AXinZaiTaiLiuWan mentioned that some universities are not recommended. They will graduate you without English or Thai scores. You will not learn anything at all. Moreover, the Chinese Education Bureau has warned them that obtaining academic certification from the Chinese government is challenging (personal communication, March 4, 2022). This information shows that the degrees of some universities are not recognized by the Chinese government. XiaoHongShu6273E194 said, "I am studying for a doctorate in Thailand. The first supervisor is Thai, and the second supervisor is an American; The research output is outstanding" (personal communication, June 1, 2024). This view shows that choosing the right university and supervisor can significantly improve the recognition of degrees and academic output.

When choosing a university, students generally consider the university's teaching quality and whether the Chinese government can recognize the degree. Seven students expressed dissatisfaction because their university degrees had difficulties in being recognized by the Chinese government. XiaoBaiXiong complained that after graduation, he could not get a degree; even if he got it, it might not be recognized (personal communication, April 11, 2024). These universities usually have problems, including directly providing courses in Chinese, distance learning, and winter and summer vacation courses, which the Chinese government does not recognize. On the contrary, the other 43 students were satisfied with the

recognition of their degrees.

In addition, some students believed that Thai universities' degrees were also recognized internationally, especially the cooperative programs with European and American universities. These programs allowed students to conduct academic exchanges and cooperation between Thai universities and universities of developed countries, thereby enhancing academic influence and employment competitiveness. For example, Xiaoyaya mentioned that she successfully entered a well-known university in the United States to continue her studies through the dual degree program in Thailand (personal communication, June 3, 2024).

In general, Thai universities offer a wide range of options in terms of degree recognition. However, students need to carefully choose universities to ensure that their degrees can be recognized in China and internationally.

### ***Future development***

Thailand's top universities are seen as springboards to education in developed countries, and many students believe that the degrees and skills obtained in Thailand will help them further their studies in developed countries. AhJane claimed that Thailand's top universities could be a springboard to developed countries (personal communication, May 28, 2024). The flexibility of Thailand's education system provides students with more development opportunities and choices. For example, Xiao Liang said that he wanted to change his major. He cannot do cross-examinations in China, but he can do them in Thailand. Thai educational institutions do not limit majors to learning more skills (personal communication, May 17, 2024). They can study across majors in Thailand and acquire more skills, which is difficult to achieve in China. Thailand's education model also focuses on practice, and many courses arrange internships and project work to help students accumulate practical work experience during the learning process.

In terms of employment, students' feedback is mixed. Some students said Thailand's economic environment and development prospects provide abundant employment opportunities. For example, QiFengLe mentioned that she planned to stay in Thailand after graduation because there are more employment opportunities in Thailand than in China (personal communication, April 25, 2024). By studying in Thailand, students can not only improve their professional knowledge and skills but also understand the Southeast Asian market and lay a solid foundation for future career development.

However, some students also reflected that despite Thailand's good economic environment, finding an ideal job is challenging due to language barriers and cultural differences. SeoChan claimed that although the job market in Thailand is good, finding a job that suits him is still difficult, especially if he needs to improve his Thai language skills (personal communication, May 7, 2024). In addition, students who plan to return to their home country for employment face a narrow employment scope. Ss commented that the experience of studying in Thailand is of limited help in finding a job in China, mainly because Chinese companies and employers have a low recognition of Thai qualifications (personal communication, June 3, 2024).

In general, the diverse development opportunities and practical experience provided by Thai universities certainly help students' future development, but there are also some challenges to overcome. Students need to make choices that suit them according to their circumstances to maximize the benefits of their study abroad experience. For example,

students can accumulate practical work experience and improve their employment competitiveness by actively participating in various internships and projects during their stay in Thailand.

### ***Language ability***

Improving language skills is another essential purpose for Chinese students to study in Thailand. Top universities in Thailand offer all-English courses for international students, which will help students study in Europe and the United States in the future. For example, ShiXiaoYan mentioned that top universities in Thailand offer high-quality courses in English to international students; after four years of undergraduate study, students can perfectly connect to studying in developed countries (personal communication, May 25, 2024).

In addition, some students have further improved their multilingual skills through language learning in Thailand, providing more significant competitive advantages for entering the international workplace in the future. For example, May commented that during her study in Thailand, she improved her English and acquired some Thai skills, which will be very helpful for her future international career development (personal communication, May 23, 2024).

However, for students who only know English and need help speaking Thai, the language is still challenging. Although the quality of English teaching in Thailand is relatively high, Thai language skills are still necessary in daily life. MyWay said that language is a significant obstacle to studying in Thailand (personal communication, May 25, 2024). Although Thai people generally know English, they have a particular accent. If the students know Thai, it is convenient to live in daily life (personal communication, May 25, 2024). Students who know Thai said that they can subsidize their living expenses through translation work. At the same time, learning Thai also provides students with more cultural experience opportunities, enabling them to better integrate into the local society and understand Thai culture and customs. This bilingual environment improves students' language skills and enhances their cross-cultural communication skills, providing favorable conditions for future international career development.

Thailand's all-English courses and bilingual environment provide Chinese students an excellent opportunity to improve their language skills. Although language barriers still exist, students can better integrate into the local society and improve their multilingual skills by learning Thai, laying a solid foundation for future international career development. Thailand's language learning environment improves students' English proficiency and enhances their cross-cultural communication skills, supporting their international careers.

### ***International vision and innovative thinking cultivation***

Thailand's education model allows children from ordinary families to experience the European and American education model, away from exam-oriented education and focusing on practice and innovation. For example, X01 mentioned that Thailand can avoid exam-oriented education. The education style is very Western and easy to learn. For example, the teacher will let students learn investment through games (personal communication, June 17, 2024). This education model helps students expand their international vision, cultivate innovative thinking, and exercise their ability to solve practical problems by participating in entrepreneurial projects and diversified activities.

Thai universities focus on students' overall development and encourage them to participate in various extracurricular activities and social practices, such as cultural

exchanges, innovation, and entrepreneurship competitions. These activities enrich students' campus life and cultivate their leadership, teamwork spirit, and social responsibility. Through these experiences, students improve their comprehensive personal qualities and establish a vast network of interpersonal relationships, providing valuable resources for future career development and personal growth.

In addition, Thailand's multicultural environment enables students to interact with classmates from different countries and regions, promoting cross-cultural communication and understanding. This diverse learning environment broadens students' international perspectives and cultivates their global vision and cross-cultural communication skills. For example, Yeyeyezi claimed that while studying in Thailand, he made friends from different countries, enriching his cultural experience and broadening his international perspective (personal communication, June 7, 2024).

In general, Thailand's education model and multicultural environment provide students with rich learning and growth opportunities, helping them to develop innovative thinking and comprehensive abilities in an international environment. These positive factors will ultimately contribute to achieving the Sustainable Development Goal on Education (SDG 4), which ensures inclusive and equitable quality education and enables more people to have lifelong learning opportunities.

## **Conclusion**

The results show that Thai higher education effectively meets the needs of Chinese international students in terms of degree recognition, future development support, language proficiency improvement, and international perspective expansion. These results answer the research question that Thai higher education has a positive potential role in alleviating the difficulties of Chinese students in entering higher education, improving Chinese education, and alleviating educational inequality in China (SDG4 Quality Education). Thailand provides an essential alternative for Chinese students facing difficulties entering higher education by providing affordable and internationally oriented courses. This finding provides a new perspective for education policymakers and the public, emphasizing the possibility of alleviating educational inequality through international education cooperation.

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# LEGAL BARRIERS TO POLITICAL ACTIVISTS TO ACCESS FAIR TRIAL IN MYANMAR AFTER THE 2021 COUP

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## Abstract

Within the criminal justice system, ensuring the right to a fair trial is a fundamental right for all individuals accused of a crime. The concept of a fair trial indicates that individuals charged with a crime must have the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law. However, legal changes, including amendments to the penal code and special laws during the 2021 military coup in Myanmar, have eroded the right to a fair trial for the accused individuals. This article examines the impact of these legal changes and access to the right to a fair trial for political activists following the 2021 military coup in Myanmar. By analyzing legal documents, reviewing court hearing systems during the coup, and conducting interviews with legal experts, this study explores the extent and nature of these impacts. Implementing these legal reforms has facilitated the prosecution of political cases and impacted the right to a fair trial for political activists. By understanding the impact of legal changes on the right to a fair trial for political activists, this study contributes to an in-depth understanding of the right to a fair trial and its broader implications for the judiciary in Myanmar.

**Keywords:** Legal Changes, Right to Fair Trial, Political Activists, 2021 Military Coup.

## Introduction

The right to a fair trial is one of the essential principles of modern society established in the international human rights system. Individuals accused of a crime can defend themselves before an impartial tribunal within a reasonable time. These rights include being informed promptly and in detail of the charges, having a public trial without undue delay, being presumed innocent until proven guilty, having adequate time and facilities to prepare a defense, having the right to legal counsel, and the right to an independent and impartial tribunal established by law. Myanmar's Constitution and special laws, like the Union Judiciary Law, Legal Aid Law, and Protection for the Personal Freedom and Security of the Citizen, ensure everyone has the right to

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a fair trial. These laws ensure that the Judiciary System of Myanmar implements the open-court system, provides the right to defense for every individual accused of a crime, and guarantees the right to legal counsel (Article 14, ICCPR).

However, the 2021 military coup has presented challenges in accessing the right to a fair trial. According to data provided by the Assistance Association for Political Prisoners (AAPP), 26,899 individuals have been detained since the coup. Among them, 9,219 people are currently serving their sentences. The paper argues that the legal changes during the 2021 coup have significantly eroded the right to a fair trial for political activists. Recent changes included amendments to the penal code and special laws and the introduction of a special court hearing system for political cases. This paper will examine legal reform and its practical impact on court proceedings and show how the ability of political activists to receive a fair trial in Myanmar has been significantly compromised.

### **Literature Review: The Concept of Political Trial and the Right to a Fair Trial**

Many scholars have discussed the importance of the right to a fair trial for the accused, which includes universally recognized rights (Langford, 2009, pp. 48-49) and people-centered rights (Chilea, 2010, p. 49). Therefore, fair trial rights ensure the standards for safeguarding the integrity and fairness of legal proceedings, thereby upholding the rule of law and promoting trust and confidence in the judiciary (Bećirovic-Alić, 2018, p. 38).

However, in a case of politically motivated trials, the right to a fair trial becomes a point of concern for the accused. According to the scholars, the concept of political trials differs from the criminal trial. Political cases, also known as political trials, are legal proceedings in which the primary motivation behind the prosecution is political rather than strictly legal. These legal proceedings often involve charges brought against individuals or groups based on their perceived opposition to or defiance of the ruling government, its policies, or its ideology (Christenson, 1983, pp. 554-555). In addition, these trials are often used by authoritarian regimes to suppress dissent, silence opposition, and maintain control over the population. The legal system is manipulated in political trials to serve the ruling regime's interests, leading to unfair and biased outcomes. Defendants in political trials may be charged with vague offenses related to national security or subversion, and violations of due process, coercion, and lack of impartiality often characterize the judicial process (Pereira, 1998, pp. 52-58). On the other hand, there is no exact legal definition for political cases under the legal concept. Regarding political trials, the authorities frequently implement laws restricting various political activities during political change. These laws may forbid the establishment of political parties other than the ruling party, any form of political dissent against the government, subversive actions, promotion of policies conflicting with government directives, and similar activities (Posner, 2005, p. 111).

Therefore, political cases present many challenges. These challenges include judicial independence, fairness and due process, public perception and legitimacy, and complex legal and political dynamics. In addition, the accused may also face legal rights violations, such as limited access to legal representation, biased judicial proceedings, or lack of due process. The outcomes of political trials can affect public trust in the legal system and the government. Therefore, political trials have broader implications for the rule of law, democracy, and human rights beyond individual cases.

### **The Impact of Legal Changes during the 2021 Coup in Myanmar**

According to a report by Human Rights Watch (2021), the legal changes in the 2021 coup resulted in human rights violations and weakened legal protections. After amending the Law Protecting Personal Freedom and Security of the Citizen, it became easy to arrest a person without a warrant and detain the accused for more than 24 hours. Adding new words in Penal Code Section 505 includes damage to motivation, discipline, health, and disobedience for legal proceedings under these conditions. On the other hand, the Criminal Procedure Code allowed section 505 of the penal code as a non-bailable offense. The Legal Aid Law has suspended the provision of legal aid for the accused from the pre- to the post-trial stage.

Following these legal amendments, thousands of individuals, including activists, journalists, and human rights defenders, have been unlawfully detained. Most were arrested and detained under Section 505 of the amended penal code and then sent to interrogation centers. Following this, Martial Law Order 5/2021 was issued, outlining the judicial proceedings for political activists. Based on this, special court hearing systems were established for political activists, known as the Prison Court and Military Tribunal. Legal proceedings within this court have concluded that the parties failed to uphold fair trial standards.

According to a 2022 ICJ Report, the judges at the special court are facing a significant overload of cases beyond their capacity. In addition, the courts are overcrowded and understaffed, and detainees need access to fair trial rights in their legal proceedings. Similarly, Ellis (2022, p. 10) highlighted the concerns raised by special court hearings regarding the judicial process. Many detainees in prison courts encounter substantial difficulties in their legal proceedings and in accessing a fair trial. The challenges include restricted access to public hearings and limitations on accessing legal counsel and witnesses.

Based on the above reasons, the 2021 coup in Myanmar has led to significant legal changes that severely impact the right to a fair trial. Amendments to the Law Protecting Personal Freedom and Security of the Citizen and Penal Code have facilitated arbitrary arrests and extended detentions. The suspension of the Legal Aid Law has deprived many accused of legal support. Special courts, including Prison Courts and Military tribunals, had been established, but they failed to meet fair trial standards.

## Methodology

To understand the challenges political activists face caused by the legal changes following the 2021 coup, this study applies the qualitative research method by conducting semi-structured interviews with 11 participants and secondary data from academic journals, articles, UNs or INGOs Reports. This research explores the challenges political activists face and their judicial proceedings.

| No. | Interviewee   | Type of Sample                 | Remark   |
|-----|---------------|--------------------------------|--|
| 1   | Respondent 1  | Representative from NGO        | An NGO that is working to access fair trial research |
| 2   | Respondent 2  | Representative from CSO        | An NGO that is working to access fair trial project  |
| 3   | Respondent 3  | Legal Aid Lawyer               | Expert   |
| 4   | Respondent 4  | Legal Aid Lawyer               | Expert   |
| 5   | Respondent 5  | Paralegal                      | Expert   |
| 6   | Respondent 6  | Paralegal                      | Expert   |
| 7   | Respondent 7  | Law Professor                  | Scholar  |
| 8   | Respondent 8  | Law Professor                  | Scholar  |
| 9   | Respondent 9  | One Family Member of Detainees | Key informant  |
| 10  | Respondent 10 | One Family Member of Detainees | Key informant  |
| 11  | Respondent 11 | One Family Member of Detainees | Key informant  |

Table 1: The Respondents list for the interview

## Finding

After conducting in-depth data analysis of interviews, it is clear that political cases in Myanmar face legal barriers to accessing a fair trial following the legal changes brought about by the 2021 coup. These barriers are outlined in the penal code amendment, which dictates how political cases should be interpreted for legal proceedings. Special legal amendments provided legal proceedings that allowed access to a fair trial for political activists. The findings show a variety of strategies needed to promote enhanced access to justice for all individuals.

### Penal Code Amendment and Access to Fair Trial in Political Cases

According to the previous literature review, political cases have a vague legal definition. However, legal amendments have the potential to significantly impact political cases in every political reform. Similarly, this article found it easier to interpret political cases because of the amendments to the penal code. According to Legal Aid Lawyers, new words such as "damage to the discipline" and "disobedience" were added to Section 505, which could be interpreted as

criminalizing politically motivated cases. For example, participating in peaceful protests and joining the CDM movement have become criminal due to the new penal code amendment. This definition made it easier to prosecute every individual with political cases.

When asked about the main purpose of amending the Penal Code, the respondent mentioned that the amendments were intended "to make it easier to prosecute everyone during political reform," "to instill fear and concern in the public," and "because existing laws are not sufficient for prosecution." This finding resembles "implement laws restricting various political activities at times of political change" (Posner, 2005, pp. 111-112). According to Law Professors, the Penal Code amendment caused many people to be unlawfully arrested for political reasons. In addition, the detainees have been held for more than 24 hours in the interrogation center after their arrest. On the other hand, they have been denied access to information about the laws and legal proceedings related to their charges. As a result, the amendment to the penal code provided an interpretation of political cases, which affected political activists' access to fair trials.

### **Special Law Amendments and Access to a Fair Trial in Political Cases**

To uphold the right to a fair trial for political activists, it is imperative to thoroughly examine the specific law amendments in addition to the amendment of the penal code. According to the legal analysis, the penal code defines criminal offenses within the legal framework. Special laws also outline procedures for accused individuals' fundamental fair trial rights. During the interviews, the respondents stated that the special legal amendments had created barriers to accessing the right to a fair trial in political cases. These barriers include the right to a public hearing, access to legal counsel, and access to witnesses for legal proceedings.

Under the concept of a fair trial, the right to a public hearing is crucial for every individual accused of a crime. This right is a fundamental element of procedural justice, ensuring transparency and accountability in legal proceedings and allowing for public and media scrutiny, except for cases involving children and sexual offenses. However, political activists have been denied public hearings for their legal proceedings in the special law amendments. Consequently, the fundamental rights of the activists have been violated, as reported by a paralegal staff, such as access to legal counsel, the right to defense, and the right to access the witness for their legal proceedings (personal communication, 15 January 2024).

Due to special law amendments, political activists faced challenges receiving fair trials after being detained. Suspending sections 5, 7, and 8 of the Law Protecting the Personal Freedom and Security of the Citizens has raised concerns regarding potential violations of fundamental rights and due process safeguards prescribed by international legal frameworks. Activists have had access to legal support restricted due to changes made to the Legal Aid Law. The combination of amendments to the penal code alongside the implementation of special laws has deprived political activists of their ability to access fundamental rights under a fair trial during their court hearings.

## **Special Court Hearing for Political Activists**

With Martial Law Order 5/2021 and the reason for the COVID-19 outbreak, a special court hearing system emerged in Myanmar for political activists. When asked about the court hearing situation, the respondents stipulated that it was "overcrowded," that it was "only allowed to enter for lawyers and judges," and that it "did not comply with the Covid Rule" were the most common answers of the respondents. In addition, there are two types of court hearing systems: military tribunals and prison courts, which are inside prisons for political activists. Per information from the key informants, individuals have the right to legal counsel for the prison court, whereas the military tribunal denies activists this privilege (personal communication, 14 January 2024). The military tribunal hears cases from five townships under martial law areas in Yangon, while the prison court handles cases from other townships (Martial Law Order 3/2021, 2021). As a result, such an impact on accessing fair trial is challenging access to justice in political cases.

On the other hand, a lack of public hearings and denial of access to legal counsel can result in many human rights violations of the accused person. During the interview, the CSO highlighted common issues in the special court hearing system, including being "forced to admit to charges," "giving false hope for amnesty," and "failure to explain the law related to the charges." For this reason, during court proceedings at a special court hearing, the accused individual was subjected to the consideration of the death penalty (personal communication, 23 December 2023).

## **Conclusion**

The above analysis illustrated how the legal changes during the 2021 coup in Myanmar impacted the fair trial for political activists in their legal proceedings. Every legal amendment must adhere to human rights and fundamental rights principles. Furthermore, the process of legal amendment must be open to individual decisions. Instead, it requires public announcement and agreement. However, legal changes during the 2021 coup often prioritize authority interests over public involvement. When political opponents accuse individuals, the authorities, including judges, police, and prosecutors, usually feel compelled to act without regard for the accused's rights. This deprivation of the right to defense not only undermines fundamental human rights but also leads to numerous incarcerations based on unsubstantiated charges. Changes in the law during the coup, including amendments to the penal code and special laws, have significantly affected the legal assistance process for activists. Amendments to the penal code have made it easier to prosecute political cases. Additionally, concerns have been raised about pre-trial rights and due process for activists following the implementation of the Law Protecting the Privacy and Security of Citizens. The amendment to the Legal Aid Law has created barriers for activists to access legal counsel, thus hindering their ability to seek justice in political cases.

This article reveals that more than amending the penal code alone is needed to analyze the impact of fair trials for political activists. When the penal code is combined with special laws,

political activists often struggle to access the right to a fair trial for their legal proceedings following their arrest. In this context, it is necessary to analyze the legal changes during the coup to comply with fair trial standards for the activists. If the law adheres to fair trial standards, it can provide access to justice for political activists. Additionally, it is essential to raise awareness of the fundamental fair trial rights and their significance during court hearings.



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# RESPONSES TO GENDER-BASED VIOLENCE CASES: A STUDY ON THE ROLE OF A LOCAL WOMEN ORGANIZATION IN SOUTHERN SHAN STATE, MYANMAR

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## Abstract

Gender-based violence (GBV) remains a pervasive global issue, deeply rooted in gender inequality issues and particularly severe in conflict-ridden regions, where it violates fundamental rights and perpetuates cycles of inequality. In conflict-ridden regions of Myanmar, especially among ethnic minority communities, women have endured horrific sexual assaults perpetrated by individuals and different armed group personnel. This brutality, employed as a means to assert dominance, has tragically led to consistent under-reporting of gender-based violence cases. Throughout history, the intertwining of conflict settings and sexual violence has been profound, yet formal reporting and legal prosecutions have been rare occurrences. This research focuses on the specific context of the ethnic region in Southern Shan State, Myanmar, conflict-ridden areas where prolonged armed conflicts and political instability have exacerbated cases of gender-based violence. This study aims to understand the responses and the approaches in addressing the issue of Gender-Based Violence, as well as the roles and activities of women's organizations in supporting GBV survivors. In this study, a local women's organization has been selected as a case study. It provides various services, including legal aid, psychological counseling, medical treatment, and safe shelters in ethnic areas in Southern Shan State. By utilizing historical analyses, documentary evidence, and interviews, this research will explore the dynamics of GBV in Southern Shan State and how local organizations are struggling to provide GBV services in the middle of conflict areas where survivors, predominantly women, face formidable barriers in accessing essential services encompassing social support, healthcare, and justice.

**Keywords:** Gender-based violence cases, survivors, Myanmar, Local women's organization, post-coup, conflict, security, victim blaming, challenges

## Introduction

Gender-based violence (GBV) is a pervasive and deeply rooted issue in Myanmar, particularly in conflict-ridden regions of Southern Shan State. Gender-based violence (GBV) is a significant and complex issue that is deeply embedded in the socio-political and conflict environment of the region. The ethnic people, primarily residing in central Southern Shan State,

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have been profoundly impacted by the deterioration of human rights, primarily attributed to the counter-insurgency activities of the military regime. These operations have led to widespread human rights violations in Southern Shan State, including killings, torture, and, notably, sexual violence against civilians (Human Rights Watch, 2022).

The history of the Southern Shan State is characterized by complex ethnic relationships and an ongoing struggle for autonomy against the military regime. Persistent armed conflicts involving various ethnic armed organizations and the Myanmar military have characterized this landscape, leading to substantial civilian displacement and disruption of traditional social structures. This environment has become conducive to increased frequency and impunity of GBV. Forcible relocations by the Myanmar military have not only displaced thousands of ethnic and other Southern Shan individuals but have also exposed them to a range of human rights abuses, with women and girls particularly vulnerable to sexual violence during these tumultuous times (Amnesty International, 2021). The military's use of sexual violence as a weapon of war and the breakdown of social norms due to conflict and displacement have exacerbated the prevalence of GBV in these regions (United Nations Human Rights Council, 2022). The limited availability of data, resulting from the closure of Southern Shan State to independent monitors and journalists, indicates a dire situation for the Southern Shan people and other ethnic groups. Gender-based violence (GBV) is a critical concern amid ongoing military operations and human rights abuses (Shan Human Rights Foundation, 2020).

## **Methodology**

This research uses case-study qualitative research methodology using primary and secondary data collection to explore the responses of non-governmental organizations to the complex dynamics in providing support to Sexual and Gender-Based Violence (SGBV) survivors to understand the role of local organizations in Southern Shan State, Myanmar. The primary objectives of the research are to understand the prevalence and nature of SGBV in this region and to examine the roles and activities of local NGOs in aiding survivors. In-depth interviews with semi-structured questions have been conducted to capture the nuanced experiences and perceptions of service providers who are involved in addressing gender-based violence cases during the military coup in conflict-ridden areas.

## **Conceptual Framework**

The proposed conceptual framework for the thesis on "Human Rights Framework" examines the role of non-governmental organizations in responding to Sexual and Gender-Based Violence (SGBV) cases within the context of Southern Shan State. The framework focuses on the local women's organization as a key local NGO, emphasizing its crucial role in supporting

survivors amid the challenging conditions of conflict settings. Additionally, the conceptual framework of this study will critically examine how non-governmental organizations (NGOs) respond to GBV cases within the constraints of a human rights framework. This analysis will interrogate the human rights principles that guide the accessibility and availability of services provided by NGOs, offering insights into how effectively these services align with the rights and needs of survivors.

### **Findings: Prevalence and Nature of Violence in Southern Shan State**

According to the study participants, five common types of violence have occurred in the Southern Shan State: domestic violence, sexual harassment and assault, conflict-related sexual violence, cyberbullying, and forced marriages.

The first type of GBV is a domestic violence incident. These cases continue to be the most documented type of GBV cases. However, there is a belief among the people that domestic violence is a normal part of marital relationships, which is leading to underreporting and a lack of formal documentation of incidents, which becomes a limitation to prove with data.

The second type of gender-based violence cases is sexual harassment and sexual assault. Areas with militia presence, such as at checkpoints, are particularly hazardous for women, who face frequent harassment and assault from authorities who control the area. Individuals from different armed groups commit those GBV cases. Women frequently face harassment, including being asked for their phone numbers and subjected to inappropriate comments and physical advances. There have been numerous reports of rape and sexual harassment, particularly involving individuals in positions of power, which is also leading to underreporting because of security concerns.

The third most common type of GBV case is conflict-related sexual violence cases. Before the coup, perpetrators of sexual violence were primarily civilians. Post-coup, individuals from different armed groups and authorities who control the area are more frequently identified as perpetrators. There has been a notable increase in CRSV cases reported post-coup, including rape cases, child rape cases and sexual exploitation. However, many survivors are unwilling to document these incidents due to security concerns.

The fourth most common type of GBV case is cyberbullying, which has become increasingly prevalent, such as cases of social media account hacking, financial theft, and online sexual harassment. These cases frequently occur in these areas and are underreported to the organization. Cyber violence has also become a growing concern. Although not frequently reported, there is a substantial amount of online sexual harassment. The rise of digital technology and the dropout of students from schools have left people more exposed to cyberbullying and

online exploitation. Many lack the knowledge to secure their online presence, increasing their vulnerability.

The fifth most common type of GBV case is forced marriage. Traditional practices of forced marriage persist in Southern Shan State, particularly among economically disadvantaged families. These marriages often involve significant age disparities and lack of consent, with young girls being married off to much older men, a situation that constitutes child-forced marriage. Divorce in these forced marriages poses additional challenges, as women often face financial burdens and lack access to property or support.

Among the five most common types of gender-based violence cases, the majority of reported cases involve domestic violence, while cases of forced marriages are reported the least. Study participants have expressed concerns about sexual slavery in their community, but there is no clear evidence to show that it is happening in their communities. All five GBV cases are considered quite serious, and their frequency increases. However, this trend leads to underreporting due to numerous barriers in reporting and documentation, which will be discussed in another section.

### **Findings: Barriers to reporting and documenting GBV cases**

According to interviews with study participants who are addressing the GBV issue for a local women's organization, it has been found that the effective reporting and documentation of Gender-Based Violence (GBV) in Southern Shan State is significantly hindered by multiple factors. These include safety and security concerns, consent issues from survivors, lack of support and access to justice, weakness of complaint mechanism and lack of trust in the justice institutions, cultural norms and beliefs, and political instability and power dynamics.

The first barrier is related to personal safety, especially concerning the reporting and documenting of GBV incidents. Most survivors do not want to give consent to proceed with reporting GBV cases. Since the coup, power dynamics have shifted, with authorities controlling areas more frequently identified as perpetrators. The fear of retribution from these powerful figures further discourages survivors from reporting GBV incidents. Consequently, the risk to personal safety has resulted in decreased reporting of GBV cases because survivors prioritize their security over seeking justice, leading to widespread underreporting.

On the other hand, NGOs, CSOs, and CBO workers have to work with low profile because of their safety. Since they must maintain a low profile, social workers cannot disclose which organization they represent while providing GBV services. Furthermore, many CSOs, CBOs and NGOs do not sign MOUs (Memorandum of Understanding) based on their organization's moral

stance on the coup. This situation not only challenges survivors' access to services but also limits service providers' ability to document GBV cases.

Another barrier is obtaining consent from GBV survivors, which is closely linked to safety and security concerns. Organizations are failing to receive consent from survivors because perpetrators are authorities who control the areas and powerful individuals. Survivors' willingness to report and document their cases is essential. However, without getting survivors' consent, GBV cases remain undocumented in those areas.

Another contributing factor is the lack of organization in providing GBV services in some areas. In regions like Ywar Ngan, no organizations are available to support survivors, leading to cases disappearing without access to justice. The lack of legal, medical, and psychological support services leaves survivors with no place to seek help. This infrastructure deficiency impedes case documentation and denies survivors the necessary support to rebuild their lives.

Other barriers include weak complaint mechanisms and a lack of trust in justice institutions, significantly hindering the effective resolution of GBV cases. Many survivors are hesitant to engage in the complaint process. Additionally, corruption and bias within the justice system worsen the GBV issues, fostering a widespread belief that justice institutions are ineffective and untrustworthy. This lack of trust discourages reporting and perpetuates a cycle of violence and impunity, depriving survivors of the support and justice they deserve. In areas controlled by ethnic armed forces, traditional practices vary significantly. Additionally, in some cases, GBV survivors are required to pay money to the village as compensation, further victimizing them and obstructing their access to justice.

Another significant barrier in reporting is social stigma. Prevailing cultural beliefs normalize certain forms of violence, particularly domestic violence, making it difficult to challenge and report these incidents. In many communities, domestic violence is seen as a private matter, and intervention by external parties is discouraged. This normalization leads to underreporting as victims may not even recognize their experiences as forms of violence that should be reported.

Furthermore, political instability and the presence of armed groups contribute to the complexity of reporting GBV cases. Before the coup, village leaders were the first point of contact in the complaint mechanisms for addressing GBV cases. As mentioned earlier, many village leaders are at risk, as they have to compile conscription lists and send people to SAC's army. Consequently, they become targets for attacks by ethnic armed groups and other individuals who are opposed to the conscription law.

## **Findings: Coping Strategies and Operations in Responding to GBV Cases in the Middle of Conflict in Southern Shan State**

Responding to gender-based violence (GBV) in conflict zones in the Southern Shan State requires adaptive and resilient coping strategies. Given the complexities of operating in an environment marked by political instability, armed conflict, and limited resources, organizations employ various methods to support survivors effectively.

Firstly, due to heightened risks and logistical challenges, NGOs and local women's organizations have shifted towards mobile and remote support systems. These systems allow flexible and discreet communication with survivors through mobile phones and online platforms. This approach helps maintain contact and provides immediate support while mitigating the risks associated with physical travel and in-person meetings. According to the study organization, they keep focal persons in the areas to maintain close contact on the ground with survivors, as there are no offices after the coup.

Additionally, creating safe spaces for survivors to report incidents and seek help is crucial, even if maintaining a constant place is impossible. Organizations have had to close their safe houses because officials feared they might harbor "People Defense Forces." Instead, they provide necessary financial support to survivors to enable them to live in safe spaces, which are often undisclosed locations, to ensure security and confidentiality. Anonymous reporting mechanisms are also set up, enabling survivors to report GBV without fear of retribution. Confidential hotlines and secure online portals facilitate discreet communication.

Moreover, engaging local leaders and trusted community members plays a vital role in navigating the complexities of conflict zones. These individuals act as intermediaries, helping to build trust between survivors and support organizations. They also assist in identifying safe routes for transportation and secure locations for temporary shelters.

Despite the challenging environment, organizations strive to offer comprehensive support services, including medical care, legal assistance, and psychological counseling. Mobile medical units and partnerships with local health providers ensure survivors receive medical attention. Legal aid is provided through remote consultations and, where possible, representation in local courts or traditional justice systems.

Furthermore, raising awareness about GBV and available support services is essential to encourage reporting and reduce stigma. Most awareness efforts are conducted through online social media and local networks. These programs are designed to educate the community about the significance of supporting survivors and the resources accessible to them. Additionally, ongoing training and capacity building for staff and key individuals is essential for maintaining



effective operations. The training programs emphasize trauma-informed care, security protocols, and culturally sensitive methods for handling GBV cases. Strengthening the capacity of local teams ensures they are prepared to address the unique challenges of operating in conflict zones.

Finally, organizations operating in the Southern Shan State demonstrate remarkable resilience and adaptability. They continuously assess the security situation and adjust their strategies accordingly. Operational flexibility enables them to respond quickly to emerging threats, thereby ensuring the safety of both survivors and staff.

In summary, addressing GBV in Southern Shan State amid ongoing conflict demands a multifaceted and adaptive approach. Despite numerous challenges, their dedication and innovative strategies are vital in meeting the needs of GBV survivors in this unstable environment.

## **Conclusion**

Women organizations providing GBV services in conflict areas encounter complex and multifaceted challenges. Political instability, logistical difficulties, and security risks significantly impede effective responses and hinder access to justice for survivors. Despite these challenges, the organization remains committed to providing them with the right to access GBV services.

The work of the women's NGO organization network with survivors affected by gender-based violence (GBV) in difficult situations is immensely challenging, mainly because the perpetrators often come from armed organizations rather than civilians. This complexity places NGOs in a dilemma as they navigate the delicate and dangerous terrain of providing support. Historically, the organization collaborated with the government before the coup, which to some extent facilitated their efforts. Engaging with ethnic organizations presents another layer of difficulty due to unique conditions and the lack of protection from ethnic armed groups.

Gender-based violence remains a significant issue within the community, creating a pervasive dilemma for the NGO. The human rights framework, which should ideally guide their operations, becomes impractical in the current situation. Social workers themselves face human rights violations from armed organizations on both sides of the conflict. The SAC's actions, including arresting and killing social workers, further complicate the situation. NGO workers have to maintain a low profile and establish discrete focal points and service areas to provide as much assistance as possible to survivors.

Given the risks, the organization does not have a memorandum of understanding (MOU) with the government since the coup. This decision arises from the inherent dangers that rights-based organizations face in the current political landscape. Despite these severe challenges, the

NGO continues to endeavor to provide accessible services and justice to survivors, albeit under constrained and perilous conditions. Balancing visibility for effectiveness with the need to maintain a low profile for security reasons underscores the profound difficulties of their mission in such conflict-ridden areas.

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# **FRENEMY?: A PERSPECTIVE ON PUBLIC-PRIVATE COLLABORATION IN THE BLUE-COLLAR MIGRANT WORKER POLICY UNDER THE NEW SOUTHBOUND POLICY**

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## **Abstract**

This research paper argues that there exists a situation of public-private collaboration between the government and private sectors regarding Taiwan's blue-collar migrant worker policies, and it contextualizes this within the framework of the New Southbound Policy (NSP). Through analysis of interview data, it finds that the NSP has fostered cultural exchange between Taiwan and Southeast Asian countries, enhancing Taiwanese society's understanding and acceptance of Southeast Asian cultures. However, challenges persist during policy implementation, including labor shortages and migrant worker rights protection. It emphasizes the importance of the government focusing on local labor employment conditions and enhancing cooperation with the private sector to develop more humane and effective policies. Employing Ansell and Gash's "collaborative governance model," it examines the current interaction between public and private sectors using the blue-collar migrant worker policy as a case study. The model highlights that building trust, setting common goals, and maintaining continuous communication and negotiation are crucial for achieving practical policy formulation and implementation cooperation. The findings suggest that fostering a more active collaboration between the government and private sectors is essential to address the challenges posed by migrant worker policies. This research paper offers valuable insights for policymakers and scholars in the region, aiding in addressing current policy challenges and promoting social stability and prosperity.

**Keywords:** public-private collaboration, collaborative governance model, blue-collar migrant worker, Taiwan's immigration policy, New Southbound Policy, human rights

## **Introduction**

On 31 August 2017, Nguyen Quoc Phi, an undocumented migrant worker from Vietnam, was reported for attempted car theft in Hsinchu, Taiwan. During the arrest, he resisted, leading the police to fire nine close-range shots, resulting in his death due to excessive bleeding. The documentary "Nine Shots" uses this incident to explore the plight of migrant workers in Taiwan, highlighting the severe challenges faced by Southeast Asian migrant workers at the margins of Taiwan's human rights landscape (NCAF, 2022).

In 2016, Tsai Ing-wen won the presidential election by resonating with voters

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disillusioned by former President Ma Ying-jeou's focus on cross-strait economic ties. In the same year, Tsai's administration announced the NSP, encouraging Taiwanese businesses to invest in South and Southeast Asia instead of China. Critics argue that without managing cross-strait relations effectively and gaining mainland China's support, the NSP cannot be fully implemented (Black, 2019, pp. 246-248).

Recent years have seen declining birth rates and labor shortages, prompting concerns about the migrant worker system. Policymakers are now more inclined to attract skilled foreign workers (Tseng, 2006). Glaser *et al.* (2018, p. 26) note that Tsai Ing-wen's NSP emphasized a "people-centered New Southbound spirit," focusing on people-to-people exchanges to strengthen bilateral relations.

Migration and mobility have become common due to modernization and globalization, leading to a focus on immigration policies. Lo (2022, p. 30) suggests that Taiwan's semi-colonial status has influenced its immigration policy, often revealing a racist stance towards Southeast Asian blue-collar workers. This study aims to explore the evolution of policies regarding blue-collar migrant workers under the NSP and to examine the private sector's response to these policies.

Director Tsai Tsung-lung (2022) argues that the migrant workers and the police involved in Nguyen Quoc Phi's case were disadvantaged within the system. He calls for civic accountability towards the policymakers and law enforcement responsible for migrant worker policies. This reflection should go beyond individual cases to address structural issues and Taiwan's collective mindset towards Southeast Asian migrant workers. Taiwan's history of migrant worker deaths in various industries reflects a long-standing policy view of these workers as expendable (NCAF, 2022).

Glaser *et al.* (2018, p. 65) highlight the need for Taiwan's officials to link domestic economic policies with the NSP to promote new industry development. As Tsai Ing-wen's term ended on 20 May 2024, marking a decade of the NSP, most studies have focused on its various aspects or migrant workers' perspectives. This study offers diverse insights into blue-collar migrant worker policies, examining the interaction between the public and private sectors within the NSP framework.

The study argues that implementing blue-collar migrant worker policies does not fully align with the "people-centered New Southbound spirit" of the NSP, revealing a gap between the ideal and reality. It aims to explore informal collaboration in public-private sector interactions, drawing on Ansell & Gash's perspective on public-private collaboration.

### **Conceptual Framework**

Since the mid-1990s, the term "new governance" has been used to describe the shift from traditional hierarchical command and control models to forms like "public-private collaboration," "indirect government," and "proxy government" (Tseng, 2017, p. 67). McGuire (2006, p. 33) points out that while collaboration relies on leaders performing different roles at various times, the government is responsible for ensuring the satisfactory provision of public goods and services.

O'Leary, Bingham, and Choi (2010, p. 565) argue that public administrators must learn by doing and adapting to their new roles through practice. Kettl (2006, p. 16)

notes that citizens' expectations of government have significantly increased over the past century. O'Leary and Vij (2012, p. 509) illustrate that public administrators engaged in collaboration often work across multiple organizations, addressing problems that single entities cannot solve alone.

The interaction between the public and private sectors is central to public-private collaboration. Klijn and Teisman (2003, p. 143) examine these sectors' core businesses and values, noting the inherent tensions, such as differing objectives and risk management strategies. Public actors focus on sectoral public objectives and political conditions, while private actors aim to realize profits under financial conditions.

Public-private collaboration can effectively utilize the technical expertise of the private sector to promote the enhancement of public interest. However, this requires overcoming the barriers between the two (Faerman, McCaffrey, & van Slyke, 2001, pp. 372-373). Lasker, Weiss, and Miller (2001, pp. 184-185) emphasize that collaboration fosters comprehensive and practical thinking, as partners often see different aspects of a problem.

However, McGuire (2006, p. 39) warns that the mere presence of collaboration does not guarantee success, stressing the need for empirical validation. Thomson and Perry (2006) propose a framework encompassing five dimensions of collaboration: governance, administration, organizational autonomy, mutuality, and norms of trust and reciprocity. These dimensions collectively reflect the structural, social, and institutional aspects of collaborative actions.

Ansell and Gash (2008, p. 543) introduce the concept of "collaborative governance," which gathers multiple stakeholders in joint forums to achieve consensus-oriented decision-making. Their collaborative governance model includes four significant variables: starting conditions, institutional design, leadership, and the collaborative process (Ansell & Gash, 2008, pp. 549-550).

Starting conditions set the fundamental levels of trust, conflict, and social capital. Facilitative leadership is crucial for mediation and trust-building. Institutional design sets the basic rules for collaboration, ensuring procedural legitimacy. The collaborative process is iterative and nonlinear, relying heavily on effective communication, face-to-face dialogue, trust building, commitment to the process, shared understanding, and intermediate outcomes (Ansell & Gash, 2008, pp. 549-561).

## **Methodology**

This study employs a qualitative approach to achieve the research objectives and analyze the research questions. The theoretical guidance for analyzing these questions will be provided through "in-depth interviews" and "secondary data analysis," with content analysis conducted on both the interview content and the literature data.

This study focuses on the interaction between the public and private sectors concerning blue-collar migrant worker policies under the NSP, starting from 2016. The public sector includes interviews with officials from the National Immigration Agency (NIA), responsible for Taiwan's immigration affairs, and officials from the Taipei City Foreign and Disabled Labor Office. The private sector involves interviews with employers who have employed blue-collar migrant workers and individuals managing

migrant worker positions within the past eight years in Taiwan.

Semi-structured interviews will be conducted to gather primary data. The objective is to investigate why the blue-collar migrant worker policy has become a contested arena between the public and private sectors. The selection of interviewees will include:

- Public Sector: Officials from the NIA and the Taipei City Foreign and Disabled Labor Office.
- Private Sector: Employers and individuals managing blue-collar migrant workers in Taiwan within the past eight years.

*Table 1 List of In-depth Interview Participants*

| Public/Private Sector | Unit Name   | Interviewee       | Code | Interview Date |
|-----------------------|---|-------------------|------|----------------|
| Public Sector         | International Affairs and Law Enforcement Division, NIA | Former Inspector  | A    | 2024.05.26     |
|                       | Immigration Affairs Division, NIA                       | Executive Officer | B    | 2024.05.25     |
|                       | Taipei City Foreign and Disabled Labor Office           | Section Assistant | C    | 2024.05.25     |
|                       | Taipei City Foreign and Disabled Labor Office           | Section Assistant | D    | 2024.06.03     |
| Private Sector        | Individual  | Employer          | E    | 2024.05.26     |
|                       | XYZ Japanese Company                                    | Department Head   | F    | 2024.05.25     |

*Source: Compiled by this research.*

Content analysis will be conducted on the gathered literature and interview results. This study aims to examine the effectiveness of blue-collar migrant worker policy from both a public and private sector perspective, assessing the achievements of President Tsai Ing-wen's eight-year implementation of the NSP.

Under President Tsai Ing-wen's NSP framework, content analysis will investigate how the blue-collar migrant worker policy has evolved as a contested arena between the public and private sectors. The research will examine whether the public and private sectors exhibit an antagonistic relationship or fall within the scope of public-private collaboration.

## **Findings and Discussion**

This study examines Taiwan's blue-collar migrant worker policies under President Tsai Ing-wen's NSP, focusing on the discrepancies between the ideal objectives and the practical realities perceived by the public and private sectors.

### ***Struggle between Ideal and Reality***

Interviews with stakeholders illuminate significant challenges. The public sector faces criticism for sluggish policy formulation and enforcement, attributed to resource constraints and bureaucratic inefficiencies. *"The shortage of manpower in the public*

*sector is something that needs to be addressed...*" (personal communication, 25 May 2024). Conversely, the private sector struggles with regulatory compliance and perceives insufficient governmental support. *"Many regulations are quite old and have not been updated..."* (personal communication, 3 June 2024). Concerns about migrant worker rights highlight tensions between policy advocacy and practical implementation (*"I think everyone only sees the immediate need..."*) (personal communication, 26 May 2024). Overall, this study utilizes Ansell and Gash's collaborative governance model (2008) to propose recommendations for improving interactions between sectors, enhancing policy effectiveness, and addressing stakeholder concerns.

### ***Factors in the Development of Public-Private Collaboration***

In policy formulation and implementation, the imbalance of resources and power between the public and private sectors critically influences policy effectiveness. This disparity often results in inefficiencies in promotion and implementation. The public sector, constrained by workforce shortages, contrasts sharply with the private sector's greater flexibility and adaptability. As highlighted by stakeholders such as the Executive Officer of NIA (Interviewee B) and the Department Head of a Japanese company (Interviewee F), bridging this gap hinges on leadership understanding and sectoral resonance:

*"Taiwan's regulations and the execution by enterprises are disconnected"* (personal communication, 25 May 2024).

*"The promotion of public-private collaboration depends on how much understanding the leader has about the industry"* (personal communication, 25 May 2024).

Efforts towards transparency and efficiency are pivotal. Integrating online application processes and cross-departmental cooperation, as advocated by Interviewee B, can significantly enhance policy efficiency:

*"'Online application' is the way to go. This is an integrated approach"* (personal communication, 25 May 2024).

Moreover, selecting public sector leaders with private sector backgrounds proves instrumental in fostering understanding and collaboration. This approach ensures better coordination between sectors and enhances policy implementation effectiveness:

*"Many of their leaders have backgrounds in the private sector"* (personal communication, 25 May 2024).

When leaders possess industry insights, they can effectively bridge the gaps between sectors and promote collaborative governance. However, challenges persist, as illustrated by the perspectives of stakeholders like Interviewee E and Interviewee F, reflecting ongoing tensions and the need for balanced policy frameworks:



*"It seems easier to give them a little more money than to implement policies"* (personal communication, 26 May 2024).

*"If companies want stable development, they cannot see aspects they can truly trust for investment"* (personal communication, 25 May 2024).

This synthesis underscores the complexity of public-private collaboration in migrant worker policies, emphasizing the need for nuanced strategies to align sectoral interests and ensure sustainable policy outcomes.

### ***Governance Model for Public-Private Collaboration***

#### ➤ **Face-to-Face Dialogue and Trust Building**

Facing the challenges of migrant worker policies, a governance model of public-private collaboration becomes crucial. Establishing effective dialogue mechanisms and a transparent policy environment helps foster understanding and trust between the public and private sectors. To facilitate effective dialogue, the Executive Officer suggests that the public sector needs to overcome caution and bureaucratic constraints, starting with small meetings to build consensus:

*"Face-to-face dialogue means having meetings. For example, the private sector holds a small meeting to establish consensus first"* (personal communication, 25 May 2024).

Furthermore, representatives from the private sector who attend meetings also bring back the process and experiences to their companies, influencing the private sector's trust in the public sector, as mentioned by Department Head F:

*"For example, the chairman or president trusts the senior executives within their companies. When these senior executives express details of interactions with the government to them, the chairman or president already has a predetermined idea"* (personal communication, 25 May 2024)

Therefore, face-to-face dialogue is essential for resolving differences, building consensus, and ensuring the smooth implementation of policies. Executive Officer B emphasizes:

*"It is like an agreement. It is about consolidating consensus to achieve cognitive consistency"* (personal communication, 25 May 2024).

#### ➤ **The Government Should Transparently Express Policy Goodwill**

Policy formulation and implementation cannot be done behind closed doors. Governments should maintain transparency during policy implementation. Department Head F points out:

*"This involves politics, for example, political stability, and sufficient water and electricity supply. In many situations, companies do not dare to speak up and*

*silently endure*" (personal communication, 25 May 2024).

Therefore, the government should clearly communicate its policy intentions, demonstrate support for the private sector, and acknowledge the needs and challenges of businesses to foster a more harmonious public-private collaboration. Through face-to-face dialogue, all parties can build consensus, resolve differences of opinion, and promote the smooth implementation of policies.

➤ **Challenges in Public-Private Collaboration**

In the pursuit of public-private collaboration, numerous challenges arise. Corporations tend to be cautious in their dealings with the government, avoiding contact to sidestep any perceived issues, as articulated by Department Head F:

*"Yeah... Companies do not like dealing with public agencies; they try to avoid it as much as possible. The boss is afraid of government units, seeing any involvement with them as troublesome"* (personal communication, 25 May 2024).

This sentiment aligns with the perspective of former Inspector A of the NIA, emphasizing the agency's law enforcement role:

*"Because we are a law enforcement agency, we are the last line of defense and the final checkpoint in this industry chain"* (personal communication, 26 May 2024).

Therefore, corporate wariness toward the government may stem from a lack of trust in government actions. Companies may perceive contact with the government as increasing legal and administrative risks, potentially adversely affecting their image and operations. Additionally, limited interaction and low trust between the public and private sectors can hinder progress in cooperation.

## **Conclusion**

Taiwan's migrant worker policies have made significant strides in enhancing protections for migrant workers, yet challenges persist, such as migrant workers going missing during policy executions. Continuous regulatory amendments are essential to safeguard their rights further and improve policy effectiveness. Future policy directions should address these challenges to ensure a healthy and stable labor market.

Establishing effective public-private collaboration is crucial for successful migrant worker policy implementation. Building trust through transparent communication and policy consensus is essential. However, business concerns about interacting with the government can hinder practical cooperation. Enhancing mutual trust and communication is critical to promoting policy implementation and development.

While promoting migrant worker policies, the government should prioritize local employment. Strengthening support measures for local workers and ensuring fair labor practices are crucial for sustainable economic development. Collaborative policy formulation between public and private sectors is essential to achieving a balanced labor market.

The NSP has enhanced Taiwan's international cooperation with Southeast Asian countries, influencing blue-collar migrant worker policies. Despite progress, challenges in policy implementation persist, including the need to effectively address labor shortages. Cooperation between the public and private sectors ensures policy effectiveness and addresses internal labor issues.

This study identifies gaps in public-private collaboration within blue-collar migrant worker policies, highlighting information disparities and policy environmental anxieties. Future research should explore these dynamics further, addressing limitations in understanding regulatory changes and human rights dilemmas. Additionally, understanding public perceptions and expectations toward policies can foster collaboration and improve policy outcomes.

In conclusion, this research analyzes the complexities of public-private collaboration in Taiwan's migrant worker policies under the NSP framework. It underscores the importance of trust-building, regulatory clarity, and local employment focus for policy success. Practical implications include fostering better cooperation between sectors and ensuring equitable labor market practices. Limitations include potential biases in data interpretation and the need for broader stakeholder perspectives. Future research should delve deeper into public perceptions and policy impacts on diverse stakeholder groups to refine policy strategies effectively.

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**IMPROVING THE QUALITY OF LIFE AND RAISING INCOME LEVELS  
FOR PEOPLE IN THE GRASSROOTS COMMUNITY,  
THE PA RAI SUBDISTRICT, ARANYAPRATHET DISTRICT,  
SA KAEO PROVINCE**

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**Abstract**

The objectives of this research were: 1) Analyze the potential of the Pa Rai subdistrict in promoting and supporting the elderly and underprivileged population, 2) Plan guidelines for developing the potential of the Pa Rai subdistrict to help solve the problem of poverty and create a better quality of life for the grassroots community, it is action research that emphasizes the process of finding truth and taking action to solve problems. This study is participatory action research with the community, involving opening a space for learning and problem-solving among multiple parties, using in-depth interviews and focus group discussions in the qualitative research process. Moreover, a sample study was conducted with 40 elderly and underprivileged people in the Pa Rai Subdistrict area. The tool used was a qualitative questionnaire designed for brainstorming to identify the community's needs, the research results found that: (1) Potential of the Pa Rai Subdistrict where most of the population is engaged in agriculture, such as growing rice, sugarcane, and cassava, followed by the general hiring occupation by organizing monthly health check-ups and health advice activities, we are ready to provide tools to support careers and exercise facilities for grassroots communities, (2) Planning guidelines for developing the potential of the Pa Rai subdistrict in using sugar cane and cassava scraps to develop for maximum benefit, including training to further develop products, such as making herbal fermented fish sauce, making scraps from sugar cane and cassava, developing products for sale by studying data from the 'Kaset Go' application, and enhance knowledge in innovation as well as online marketing to adapt for the future, sustainable development results allow people in the community to see the picture of joint development in the new era of market 4.0, which is truly ready to learn and push for further change.

**Keywords:** Develop quality of life, raised income level, Grassroots Community

**Introduction**

The government has linked the United Nations Sustainable Development Goals with Thailand's 20-year National Strategic Plan and the 20-year agricultural and cooperative strategy

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from 2017 to 2036, embracing the Philosophy of the Sufficiency Economy that emphasizes sustainable development to recognize the surrounding environment and uses the working principles of His Majesty King Bhumibol Adulyadej as a guideline for implementing policy, this concept is to improve the quality of life and raises the income level of the people, solving structural problems in agriculture to strengthen the food security enhance and improve nutrition and food safety to lead to stability, prosperity and sustainability of the people and the nation. His Majesty King Chulalongkorn, King Rama X, is firmly determined to continue the royal projects his father initiated to help improve the quality of life for people.

Valaya Alongkorn Rajabhat University, under the Royal Patronage, was graciously granted university status by His Majesty King Rama IX with a mission to contribute to local development as stipulated in the Rajabhat University Act 2004, Section 7, which specifies that universities are higher education institutions for local development and enhancing the intellectual power of the land, this is in line with the university's strategic plan to raise the standard of Rajabhat University to excellence by focusing on developing graduates into professionals. The results are to raise the quality of life standards of communities, localities, and areas to be solid and sustainable; Valaya Alongkorn Rajabhat University under Royal Patronage is another government agency that has a role in driving community development in various dimensions in line with the guidelines of the Ministry of Higher Education, Science, Research and Innovation, which has 16 main goals to lift communities throughout the country out of poverty, creating strong local communities at the subdistrict level in 3 characteristics: (1) subdistrict free from hardship, (2) subdistrict aims for sufficiency, and (3) the subdistrict aims for sustainability by developing, its social, economic, and environmental dimensions in an integrated manner, this approach ensures that projects in the area are efficient and effectively meet local needs.

Therefore, the researcher and team, who were assigned by Valaya Alongkorn University under the Royal Patronage, Sa Kaeo province, started a project to develop the quality of life and raise income levels for people in the grassroots community, the Pa Rai subdistrict, Aranyaprathet district, Sa Kaeo province. The purpose was that people in the community could manage their own lives appropriately and be able to survive according to the Sufficiency Economy Philosophy, as well as to promote local wisdom to add value to the grassroots economy in the community, strengthen and develop the community environment and management, and enhance social development in an integrated manner by creating community leaders and fostering volunteerism among the people, the results will lead to sustainable self-reliance and mutual assistance in the community.

### **Research Objectives**

1) To analyze the potential of the Pa Rai subdistrict in promoting and supporting the elderly and underprivileged population<sup>3</sup>.

2) To plan guidelines for developing the potential of the Pa Rai subdistrict to help solve the problem of poverty and create a better quality of life for the grassroots community<sup>4</sup>.

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<sup>3</sup> The underprivileged population refers to people experiencing hardship who are affected economically, socially, educationally, and in terms of public health. This population includes those lacking access to basic government services, resulting in their inability to live an equal life compared to others.

<sup>4</sup> A grassroots community is a local community that is self-reliant under the philosophy of a sufficiency economy, where help and reliance on each other with an economic system facilitate development in one's area.

## Conceptual Framework

This study employs several conceptual frameworks to analyze and plan guidelines for developing the potential of the Pa Rai subdistrict as research findings, in line with the Sufficiency Economy Philosophy of His Majesty King Rama IX, which His Majesty King Rama X is firmly committed to continuing, new agricultural concepts are being developed to enhance the quality of life at all levels from families and communities to society and the nation. These initiatives are designed to ensure that people are well-prepared for social, environmental, and cultural changes in the global community, thereby maintaining a good quality of life, in alignment with United Nations Principles, Thailand has signed the Sustainable Development Cooperation Framework (UNSDCF) 2022-2026, which integrates the principles of “Leave No One Behind,” human rights, gender equality, sustainability, and resilience. Moreover, it aligns with the vision of Valaya Alongkorn Rajabhat University under Royal Patronage, which serves as a learning institution for people of all ages, fostering innovation to boost the economy and grassroots development.

The university collaborates with social partners to achieve balanced and sustainable development, fulfilling its responsibility towards society.

The study aimed to explore and analyze the potential of the Pa Rai Subdistrict in promoting and supporting the elderly and underprivileged population to develop and promote health to have a strong body and light work that can be done as an additional career, a good heart, and good recreation in the community, using closed-ended questionnaires, field observations, and focus group discussions in “SWOT Analysis” provided qualitative insights, it is action research in the process of discovering the truth about actions and solving problems. Working participatory action research (PAR) with people in need of a community is the beginning of the problem-solving process and training in developing career skills, health, and products by training to develop knowledge, enhance skills, and understand various applications for online marketing.

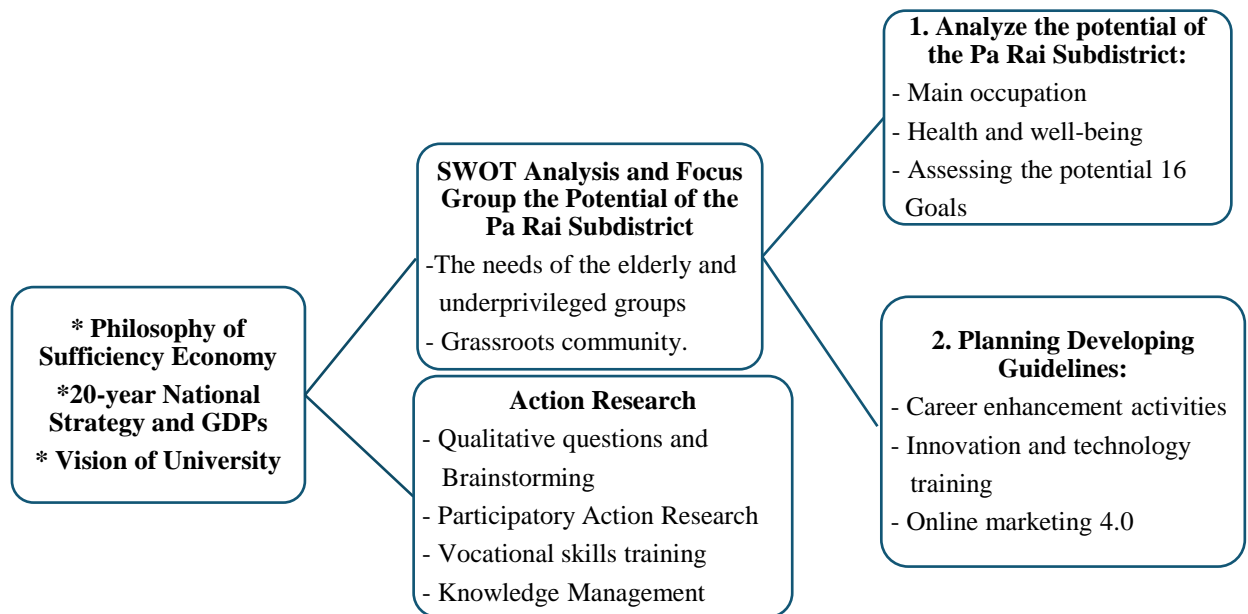


Figure 1 Conceptual Framework



## Methodology

This research employs action research and qualitative research methods, using a sample of 40 elderly and underprivileged individuals from the Pa Rai subdistrict. The research tool is a qualitative questionnaire from brainstorming ideas and needs of the community. After that, the research team manages participatory action research (PAR) with the community for training, skill enhancement, product development, career creation for extra income and study information for knowledge development in innovation and online marketing through new marketing channels (4.0), to promote community products to be successful, divide the research methods into three forms:

**1) Qualitative Research** opens a space for learning and solving problems together between many parties, both through in-depth interviews and focus group discussions. In the qualitative research process, the researcher collects data on research questions through interviews to analyze the community's potential using SWOT Analysis, which includes the community's strengths, weaknesses, opportunities, and threats. This study focuses on understanding the problems and needs of the community, especially among the elderly and underprivileged groups.

**2) Participatory Action Research (PAR)** is a problem-solving process that includes training to develop professional skills and products for sale. It also enhances skills in various occupations and supports knowledge about innovation and online marketing. These efforts aim to help the community adapt to future marketing trends.

**3) Action Research** shows that participatory research involves collaboration between researchers and various community agencies. The process begins with qualitative research involving in-depth analysis to facilitate genuine development. Subsequently, reasonable decisions are made collectively and effectively applied during joint activities until satisfactory outcomes are achieved. The process focuses on disseminating new knowledge within the community, emphasizing analytical and problem-solving concepts, enhancing product development, and responding to community needs. Additionally, it includes training to develop knowledge, enhancement of skills, and understanding of various applications of online marketing so that the community can effectively adapt to the future era of marketing. This operational system follows a cycle of four steps, including Plan, Act, Observe, and Reflect ("PAOR"), and this cycle is continuously repeated to study the outcomes of actions, assessing whether the community can develop and achieve success aligned with its desired goals.

## Findings

### 1. Potential for Pa Rai subdistrict

Most people have agriculture as their primary occupation. The outstanding products of the Pa Rai subdistrict are plastic basket-woven products, skirt cloth and loincloths, "Khaoma." Production is based on grouping together and household production, and some areas have also developed further production to have many different types of products for distribution to general customer groups.

Tourist attractions in the Pa Rai subdistrict include Rong Kluea Market, Indochina Shopping Center, Det Thai Market, Benjawan Market, Rattanatham Market and Sayan Market.

Information on the health and well-being of the population of the Pa Rai Subdistrict shows that it has two hospitals and one health clinic. The evaluation of various indicators found that all indicators have been passed, according to the indicator data in the Thai People Map and Analytics Platform (TPMAP).<sup>5</sup> of the Community Development Department 2021 (zero percent pass the criteria)

From the assessment of the potential of the Pa Rai subdistrict according to the sixteen goals, it was found that five criteria were not met: systematic allocation of resources, living aspect, new agricultural theory, quality development for vulnerable groups, and health, the results of the analysis are based on 11 goals, including subdistrict community organization with high management, capacity, analytical ability, income-expenses, family pond, enterprise management, social training, infrastructure management, safe zone subdistrict, subdistrict learning center, the community justice system, community communication system & digital media and goodness and morality subdistrict.

Therefore, the analysis results must align with the activities of the elderly club, such as health examinations and providing health counseling every month, participation in promoting healthcare and monitoring, including health promotion projects tailored to different age groups, as well as providing exercise facilities for community members, should also be included.

## **2. Guidelines and plans for developing the potential of the Pa Rai subdistrict**

The researchers used a SWOT Analysis of the community to study the strengths, weaknesses, opportunities, and threats of the Pa Rai Subdistrict and to manage focus group discussions with the target group being community leaders and stakeholders as follows:

2.1 The plan to develop the potential of the Pa Rai Subdistrict consists of promoting the use of applications and the business model canvas, which begins with the analysis of pain points and stakeholders to identify the five actual needs of the community.

2.2 Career promotion activities include producing herbal fish sauce for sale, utilizing locally available herbs and fish at a low cost in the Pa Rai subdistrict. This initiative adheres to the principles of the circular economy and product design, aiming to expand knowledge and business models that foster sustainable community growth. Additionally, support for production trials should include training and utilizing sugar cane and cassava scraps as alternative energy sources. Thus, all agencies are prepared to support efficient resource utilization and waste reduction in the community.

In addition, other community products promote training for the elderly people, such as making baskets and brooms with flowers to make various products as the creative economy in the form of marketing to develop cultural heritage tourism creative economy for creating value for products that come from the ideas of the community in another way. It is considered a development project that results in success

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<sup>5</sup> TPMAP, or "Thai People Map and Analytics Platform," is Thailand's data analytics tool aimed at precision poverty alleviation and improving the quality of life for Thai citizens. It aims to derive precision poverty alleviation programs suitable for individuals in each province, district, or sub-district. This tool was developed by NESDB, NECTEC, and NSTDA under the Ministry of Science and Technology.

(Quick Win Project) by helping to emphasize the development of various career skills for income distribution.

2.3 Supporting innovation and technology development: Create a new community management process and promote the use of technology to help in agriculture and product development, such as studying information from the “Kaset Go” application, an online community app for agricultural people that has answers to all agricultural problems, it allows farmers to consult agricultural experts, share knowledge with other farmers in the community, and connect with those who have similar experiences. Additionally, the application also provides other information such as daily crop prices, agricultural news, farming tips, etc.

2.4 To promote and train online marketing concepts, create a social media platform to increase sales, and develop community members' skills to learn new knowledge collectively in the era of Marketing 4.0. This initiative allows adaptation to suit the changes in today's society.

## **Conclusion**

The study's results found that the Pa Rai subdistrict is a self-sufficient subdistrict that engages in various activities, such as promoting health and enhancing professional skills and knowledge among community members. There is cooperation in organizing various activities driven by the determination and dedication of the community members. Additionally, it was found that villagers possess skills in product development. However, there is still a lack of knowledge and understanding in adding value to products and utilizing online marketing strategies.

Before starting the project, community members who had never considered ideas that could allow them to earn a living based on their physical skills began to envision leadership and readiness to learn. This shift signifies a readiness to bring about real change without hesitation. The results of this project align with the strategic plan of raising the quality standards of Valaya Alongkorn Rajabhat University under the Royal Patronage to excellence, which focuses on enhancing the quality of life standards of local communities to be robust and sustainable.

Carrying out this project is considered a success because of good cooperation, positive results and good feedback from the community. The project also receives support from the Pa Rai Subdistrict municipality, community leaders, residents, and stakeholders. As mentioned earlier, this initiative aims to enhance welfare and increase income levels for the grassroots community while fostering a collective vision of community development. It involves learning and transitioning into a new era of Marketing 4.0, aiming towards sustainable development.

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# FACTORS THAT HINDER THE DEVELOPMENT OF SENIOR TOURISM INDUSTRY IN THAILAND: ADDRESSING ACCESSIBILITY CONSTRAINTS THROUGH EXPERT PERSPECTIVES

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## **Abstract**

Currently, Thailand's infrastructure remains underdeveloped in terms of accessibility for both senior tourists and those with disabilities. This research paper investigates areas of development of Thai senior tourism, particularly in physical accessibility like walkability and mobility, identifies developmental challenges that hinder the development processes, and seeks recommendations. The study draws on literature reviews and qualitative data from in-depth interviews with five experts involved in accessibility, the aging population, and tourism. A thematic analysis of the data collected reveals that Thailand lacks sufficient accessible infrastructure, particularly in walkability, road safety, public transport, and universal design of accommodations and facilities. Limited tour options, including high-cost travel, inequity in travel participation, and shortage of special assistants for hire to senior tourists, act as traveling constraints and barriers for older people to travel. Also, the study identifies the root causes of these developmental challenges: inefficient bureaucracy, superficial strategic planning and goals, centralized governance limiting local decision-making, and a lack of pedestrian-focused urban and service design. Finally, the study proposes the following recommendations to address the challenges and contribute to developing senior tourism and accessibility in Thailand: 1. Balancing decentralized governance to empower local decision-making. 2. Establishing networks between local administrations and stakeholders to improve collaboration for local developmental projects and sandbox initiatives, demonstrating the benefits of accessible design to persuade stakeholders and drive broader implementation nationwide. 3. Shifting the paradigm to prioritize walkability and public transportation and unifying communication systems to align objectives. 4. Allocating budget into and increasing government investment in senior- and disabled-friendly services and infrastructure.

**Keywords:** Senior Tourism, Development, Challenges, Accessibility, Thailand

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## Introduction

Senior tourism encompasses essential aspects ranging from planning and booking, communication, safety, and security to accessibility of facilities and attractions. Unfortunately, many authors state that Thailand’s tourism industry is currently not well-equipped enough to cater to the needs of elderly and disabled people to the point of its potential, specifically the availability of senior-friendly infrastructure and accessibility for all (Bootsaranon & Sudsomboon, 2018; Chidchio, 2008; Prasongthan et al., 2021). As Thailand and many countries face an aging society or an increasing elderly population, this trend is expected to continue in the coming decades. Moreover, this presents a significant opportunity for the tourism industry, especially during low tourism seasons, as seniors who do not have to work and retire are often more affluent and have more time to travel than other groups (Afonso, 2021). Therefore, it is necessary to identify obstacles that hinder the development processes and find opportunities to overcome them to serve as a guideline for future corrections.

## Conceptual Framework

This study employs a qualitative approach by using thematic analysis by Braun and Clarke (2006) to analyze and identify developmental challenges and solutions for Thailand’s senior tourism from the data collection of primary and secondary sources. Based upon the concepts of vulnerable road users (VRUs), Accessible Tourism Guide by Designated Areas for Sustainable Tourism Administration (DASTA) (n.d.), and other data collected on senior tourism, this study emphasizes the problems of Thailand’s senior tourism and links the relationship of the industry’s developmental processes to the problems of Thailand’s senior tourism; which are correlated to the travel intentions of senior people.

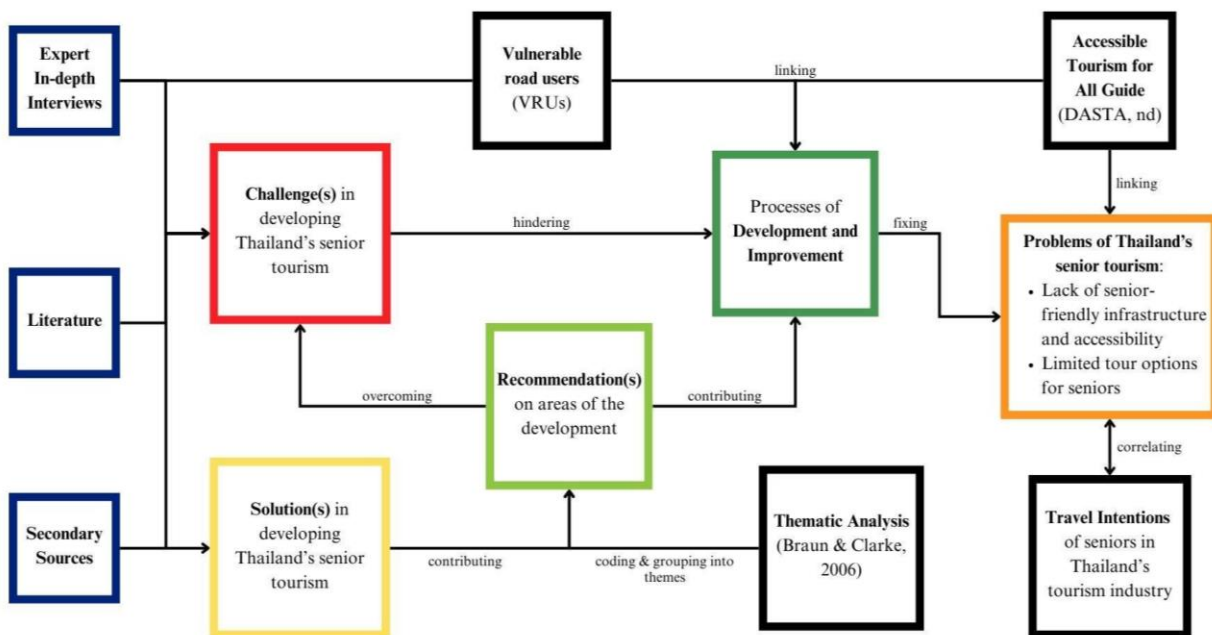


Figure 1. Conceptual framework

## Methodology

This research paper employs a qualitative approach, focusing on the developmental challenges of accessibility for senior tourists, which consists of reviewing the literature of elders regarding senior tourism as well as developmental areas that can be improved in the current trends of the senior tourism industry in Thailand. Also, this research identifies opportunities and challenges in the process of developing Thai senior tourism through the thematic analysis of primary data collection by purposive sampling: in-depth interviews of five experts in the related fields such as accessibility design, tourism, and elderly, and secondary data collection: related articles, research papers, standards and policies, statistics, and other sources available to the public. Lastly, the author will create recommendations based upon incorporating primary and secondary research for responsible vital players to act and contribute accordingly to improve the Thai senior tourism industry.

## Literature Review

Senior tourism is an extension of tourist segmentation based on quality because it increases the supply of goods and services, not as a niche market (Alén et al., 2012, p. 147). Key players in this industry must focus on giving older people the right to access senior-friendly products and services with universal design (Wan, 2015). Senior tourism is directly related to accessible tourism as disability is often correlated to being old (Alén et al., 2012, p. 141), which is supported by data from the World Health Organisation (WHO) that over one-third of people over 65 have some types of disability (Fuguet, 2008, as cited in Alén et al., 2012, p. 141). So, the definition of senior tourism lies in the accessible travel of senior tourists to facilities and infrastructures of tourist attractions and products and services of service providers. Improving accessibility and infrastructure of the senior tourism market will not only enable elderly people to access those tourist attractions and facilities but also groups like disabled people, individuals with temporarily restricted capabilities such as pregnant women, children, and families will also benefit from the development (Alén et al., 2012, pp. 139–140). A study by Prasongthan et al. (2021) finds that health-related issues and difficulties of elders significantly correlate with the abandonment of travel. Insufficient facilities can act as a deterrent for seniors with health issues, reducing their intentions to travel.

## Findings and Discussion

This research paper has incorporated the data from interviews of experts who have worked in the field of design and services related to accessibility, have experience in organizing senior tours, and have expertise related to elderly or disabled people, as shown in Table 1 below:

| Expert Interviewees | Occupation   | Remark  |
|---------------------|--|---|
| Expert 1            | Design Educator and Innovation Consultant specializing in Design Thinking and Service Design | has worked in designing services related to accessibility for the elderly and Thai local communities                |
| Expert 2            | Lecturer at a School of Architecture and Design  | specializes in innovation design and has studied elderly people in Thai and foreign contexts for more than 12 years |

|          |   |   |
|----------|---|---|
| Expert 3 | Managing Director and Co-founder of Tour Agency   | has experience managing tour packages and services for senior tourists on both domestic and international travel                |
| Expert 4 | Senior Professional Nurse at Local Medical and Rehabilitation Center                            | has worked for several years in facilitating and taking care of senior tourists on many trips organized by the local government |
| Expert 5 | Director of the Local Medical and Rehabilitation Center and Sanitation Technical Senior Officer | has experience working on improving the well-being and health aspects of the elderly in local communities                       |

Table 1. *Profile of Expert Interviewees*

**Overview of the Current Senior Tourism Industry in Thailand**

The Tourism Authority of Thailand (2020) states that Thailand is not a great tourist destination to visit for people with disabilities, reduced mobility, or other physical disabilities. Only larger resorts and tourist attractions provide facilities for those groups of people. In rural areas, public transportation is insufficient and often inaccessible to wheelchair users. This includes lacking services for physically challenged travelers, such as too few ramps and elevators. Consequently, people with disabilities who attempt to travel in Thailand can face a challenging time (Tourism Authority of Thailand, 2020). Likewise, Salika (2022) wrote that senior-friendly utilities are still limited, especially in places far away from main tourist attractions. Some senior tourists with middle income, therefore, consider that Thailand is not yet ready to provide tourism services at an affordable price. However, it is more suitable for those individuals with a higher purchasing power (Salika, 2022).

**Problems of Thailand’s Senior Tourism**

Through a series of analyses of literature review, secondary research, and in-depth interviews with experts from diverse backgrounds and expertise related to elders and senior tourism in Thailand, emerging problems and senior needs have been highlighted and categorized as two main areas of problems and specific issues of each problem below:

**Lack of Senior-friendly Infrastructure and Accessibility**

***Walkability***

Thailand faces considerable challenges in walkability, especially for people with disabilities, mobility difficulties, and other vulnerable road users (VRUs). Walkability refers to the accessibility or ability to walk to services and amenities on foot (Lo, 2009). Especially within a reasonable distance, it is usually defined as a walk of 30 minutes or less (Ionescu, 2022). Unfortunately, Thailand does not offer much to pedestrians regarding the quality of roads and



pathways. It can be observed that even in a central city like Bangkok, uneven walkways and obstacles exist almost everywhere. The lack of standardized sidewalks, misuse of pathways by vendors and motorists, and various public agencies excavating walkways for utility installation or maintenance without making them according to road standards aggravate the deterioration of public walkways, creating an unsuitable environment for pedestrians (Thairath, 2015a, 2015b, 2015c).

### ***Road Safety***

Walkability concerns also contribute to road safety concerns for VRUs, including pedestrians, cyclists, children, and elderly people. From 2011 to 2020, one-third of reported cases related to road traffic accidents of pedestrians in Thailand occurred in metropolitan areas, often due to heavy traffic and more road crossings (Kongkunakornkul, 2022). Moreover, sidewalks, traffic signs, pedestrian crossing lights, and warning signs on roads that are fewer than they should have often have a higher risk of car accidents involving pedestrians (Sonthikul, 2019). Therefore, improving road safety for VRUs requires comprehensive measures such as implementing speed limit control measures, installing warning signs, enhancing sidewalks and crossing areas, designing road infrastructure, and other regulations or techniques that ensure pedestrian safety and allow disabled people and wheelchair users to cross easily while at a point where drivers can stop and slow down (Sonthikul, 2019).

### ***Public Transports***

Thailand has a variety of transport means with affordable prices, such as public trains, buses, Songthaew, and Tuk-tuk. Most are not senior-friendly or disabled support, especially outside of central cities. Wheelchair users usually cannot board public buses, and people with disabilities are typically compelled to take taxis to get around cities. Unfortunately, most taxi drivers do not have the necessary training or experience to assist a client in a wheelchair into and out of their vehicle (Tourism Authority of Thailand, 2020). While the Bangkok MRT underground (Metro) has better-disabled access and all of the stations have elevators, other train services like BTS Sky Train stations in Bangkok, the national rail network lack special facilities for disabled passengers (Tourism Authority of Thailand, 2020), which still pose challenges for accessibility.

### ***Universal Design of Hotels, Buildings, and Public Toilets***

Few buildings generally have ramps and railings to facilitate disability access, and the walkways and roadways are uneven. There are few audible signals at crosswalks for blind people, and guide dogs are uncommon (Tourism Authority of Thailand, 2020). Also, only a few hotels in popular attractions in Thailand have universal designs with accessibility for seniors or people with disabilities, such as wheelchair users, as mentioned by Expert 3 from his experience (personal communication, 9 March 2024).

A study by Kovindha and Rapipong (2015) found that in a popular tourist destination like Chiang Mai, main walking streets are unsuitable for wheelchair users, disabled and senior people as they lack ramps, accessible restrooms, and other facilities. Moreover, most of the local people and owners of the places interviewed had neither knowledge nor a positive attitude toward providing or renovating facilities for disabled and elderly people. These issues of negative attitudes

toward disabilities and not having awareness regarding accessibility concerns in Thai society are some social barriers to accessible tourism (DASTA, n.d.).

Those findings highlight the gap between existing accessibility standards and their practical implementation in accommodations and facilities in Thailand.

## **Limited Tour Options for Seniors**

### ***Traveling Companions or Trained Caregivers for Hire***

One of the main traveling constraints of senior tourists is the lack of traveling companions. Without any traveling companions, some elderly decided not to travel (Nimrod, 2008). Expert 3 (personal communication, 9 March 2024) and Expert 4 (personal communication, 15 March 2024) mentioned that in this field, there are only a few available staff who are trained to be caretakers and can also act as traveling companions who know how to handle emergencies or medical concerns of seniors or disabled people, so not many are available for hire to those seniors or disabled tourists who need them.

### ***High Expenses and Inequity in Participating Senior Tours***

Another matter is inequity in the participation of senior tourism due to high expenses or costs to buy tour packages for seniors or hire caregivers. Expert 4 said that there are many elderly citizens in Pathum Thani and from other provinces who want to join senior trips like the senior trips that Bueng Yitho Municipality has organized but cannot do so because their municipality does not have any trips for seniors. “I think it is due to financial constraints or budget allocation to other things, so there are not many senior tours organized by local governments in Thailand,” she said (personal communication, 15 March 2024). Therefore, elderly people who come as customers at Bueng Yitho Medical and Rehabilitation Center are more privileged and prioritized firstly to participate in the trips than other groups of elders. In other words, only those privileged or seniors with financial capacity have more opportunity to travel with paid, hired caregivers or special support.

## **Underlying Developmental Challenges**

From in-depth interviews with experts and secondary sources, areas of senior tourism-related problems have underlying developmental challenges that are analyzed and identified as themes and patterns categorized into the developmental challenge areas below:

### **Theme 1: Thai Systematic Concerns**

Expert 1 (personal communication, 15 February 2024), Expert 2 (personal communication, 5 March 2024), and Expert 5 (personal communication, 15 March 2024) all point out that the developmental issues of Thailand’s senior tourism and accessible facilities are root caused by the Thai systems. For instance, the inefficient nature of the Thai bureaucratic system and governance does not facilitate local administrations’ decision-making processes and development, leading to many management, communication, and collaboration issues.

Thailand’s bureaucratic system is considered confusing and isolated among its many existing public organizations, departments, and sub-departments, leading to inefficiencies, limited coordination between government agencies, and difficulty collaborating between the public and

private sectors. The idea aligns with Wichairam (2021), who presumes that the problems with the Thai public administration system are related to the bureaucratic system that is chronically slow and inefficient caused by the abundant expansion of government agencies. It leads to more overlapping structures and missions that lack clarity over time with increasing agencies. Besides, the management also has a patronage system rooted in Thai culture. This causes personnel to lack motivation to perform their duties. Moreover, they are likely to be subjected to political interference.

Expert 5, as an executive in a local government or municipality, shares his experience working to develop the area of Bueng Yitho, such as sidewalks, roads, or U-turns under the bridge; the municipality has to ask permission from many central government agencies. If one of those agencies declines the permission, the development projects will not happen. “It is difficult to develop the area when there is enough budget, but there is no authority or power; we cannot change anything without higher-ups’ approvals,” he said (personal communication, 15 March 2024).

### **Theme 2: Practicality of Policies and Regulations**

Expert 1 (personal communication, 15 February 2024) and Expert 2 (personal communication, 5 March 2024) recognize that enforcing Thailand’s laws and regulations is weak or impractical in real settings. “Thai bureaucrats are procedural rather than result-focused,” said Expert 2 (personal communication, 5 March 2024). Likewise, Thairath Money (2024) points out that Thailand is a “planned society” full of strategic plans, but there is no mechanism to drive the plan to produce good results. This is reflected by disproportionate spending, the strategic investment budget for building competitiveness in 2023, and other projects still lacking compliance with strategic plans.

(Pud, 2022a, 2022b) also criticizes and explains how Thai local administrations and central government agencies create strategic and budget spending plans that often lack practical explanations, goals, or key success indicators to reach tangible or useful results. In other words, focusing on completing plans on paper rather than achieving meaningful results for society. The author explains further that planning and decision-making processes that are empowered, localized, and adapted to each local context and specific conditions are necessary for keeping officials motivated and obligated to produce practical results.

### **Theme 3: Prioritization Concerns**

Expert 1 (personal communication, 15 February 2024) and Expert 2 (personal communication, 5 March 2024) agree that Thai society prioritizes vehicles over pedestrians, negatively impacting walkability and accessibility for many people, especially seniors and disabled individuals. Expert 1 believes that there should be public facilities and transport that are accessible for those who have mobility difficulties (personal communication, 15 February 2024). These ideas are oriented with Sitthan Chalontham, the owner of the Facebook page The Sidewalk; he promotes that Thailand’s model should give importance to pedestrians over vehicles, emphasizes the potential of sidewalks to serve as vibrant social and commercial hubs, and calls for a comprehensive overhaul of urban planning to address foundational walkability issues (Opaswatanakul, 2020).

In addition, one of the main reasons accessible obstacles have not been prioritized and addressed is that the government has not yet provided enough support and insufficient investment

in this area. Accessibility is seen as a burden expense to be paid rather than an opportunity for development that will lead to a return on investment and future benefits to society (DASTA, n.d.).

## **Recommendations for the Development**

### **Changing Governance and Decentralization**

At the big scope of the country, Expert 5 advocates for a change in Thai governance as he believes that through the system of election and policy-making process in Thailand as a whole, electing officials who are committed to empowering local government decision-making is essential. Additionally, this change in governance would allow local governments to create and localize responsive policies and initiatives related to senior tourism and the accessibility needs of those senior citizens, which suits local contexts and may potentially lead to national-level adaptation (personal communication, 15 March 2024).

Similarly, Wichairam (2021) argues that the Thai government administration's laws, rules, and regulations are currently in obsolescence. He emphasizes the need for reform to increase efficiency and responsiveness in bureaucratic agencies or organizations. He argues for smaller, more streamlined organizational structures that can better meet the specific needs of the people. Furthermore, Luengraphat (2016) proposes "devolution" or decentralization as a potential solution. This process shifts power and decision-making authority from the central state to local bodies. This would allow local agencies to act swiftly using their understanding of on-the-ground realities. However, the centralization challenge identified by Luengraphat is balancing this decentralized structure with existing centralized systems. This tension is critical in the larger reform debate for Thailand's public administration.

### **Networking and Sandbox Models**

For the smaller picture, Expert 5 envisions and recommends a collaborative approach to create a network consisting of diverse stakeholders such as government bodies, businesses like tour agencies, hotels and restaurants, local communities, and healthcare centers to work together to create a network like one big community within a smaller scale. If it works, the networking model can be adapted to a wider scale (personal communication, 15 March 2024).

Along the same lines, Expert 1 proposes a "show, do not tell" approach. He recommends creating small sandboxes or pilot projects demonstrating what an "accessible city" can look and feel like in practice. The tangible examples could help convince Thai citizens and responsible public authorities of the value of such changes and adapt the successful models to be implemented more widely (personal communication, 15 February 2024).

### **Paradigm Shifting and Unification**

Expert 2 encourages a paradigm shift in Thailand, with the priorities from a vehicle-centric approach to pedestrians and a focus on walkability, which gives importance to improving public transport and sidewalks for walking people. However, she acknowledges that a crucial prerequisite for the change is to create streamlined communication and collaboration among Thai government agencies. As mentioned earlier, different standards and practices are used across agencies, which can lead to overlapping work and conflicting goals (personal communication, 5 March 2024). To address this, Expert 2 said that a unified data collection and communication system must be created. The system should employ consistent standards throughout public bodies and offer

transparency to Thai citizens, allowing the people to monitor agency activities, request evidence, and file complaints if needed. This, in turn, would enable more collaborations within the public sector and between government agencies, the private sector, and civil society (personal communication, 5 March 2024).

### **Budget Allocation and Investment**

Expert 3 (personal communication, 9 March 2024) and Expert 4 (personal communication, 15 March 2024) both encourage the government to increase investment and subsidy in services and facilities that directly enhance the lives of senior and disabled persons within Thailand. Particularly in areas such as transport and shuttle services to cater to elderly and disabled people, language translation services to assist older adults who may not be fluent in languages used for tourism or medical care, and last but not least, elderly care services to support a rapidly aging population.

Likewise, Expert 1 (personal communication, 15 February 2024) and Expert 2 (personal communication, 5 March 2024) recommend budget allocating and increasing government investment heavily on developing comprehensive public transportation systems and improving the quality and safety of sidewalks and public utilities like public toilets. This will not only improve walkability and promote the well-being of older and disabled individuals through more physical activity, social interaction, and greater independence but also benefit society as a whole by having an accessible and affordable transport system and walkable cities for everyone (Expert 1, personal communication, 15 February 2024).

### **Conclusion**

This paper reviews the current situation and problems of Thailand's senior tourism industry. Findings found that it still lacks senior-friendly infrastructure and accessibility. It highlights three main areas of underlying challenges that hinder the developmental processes of senior tourism in Thailand, categorized into three main themes: 1. Thai Systematic Concerns, 2. Practicality of Policies and Regulations, and 3. Prioritization Concerns.

Importantly, as the most feasible recommendations, initiating more networking strategies and sandbox models and doing field research are suggested as the most practical approaches to gathering data and assessing the effectiveness of accessibility initiatives in Thailand's real-world settings.

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# FROM FOREST TO TABLE: EXAMINING THE SUSTAINABLE FOOD SYSTEMS OF INDIGENOUS COMMUNITIES

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## Abstract

In the face of environmental challenges from industrialized agriculture and climate change, Indigenous knowledge offers vital insights for sustainable living. This study explores the sustainable food systems of Indigenous peoples, highlighting their deep connection to nature, cultural heritage, and ecological knowledge. Indigenous communities worldwide have developed crop rotation, intercropping, and agroforestry practices, which enhance biodiversity and resilience against environmental disturbances. The dietary transition from traditional foods to modern alternatives, like the shift from sago to rice in West Papua, Indonesia, poses health risks, increases dependency on external food sources, and threatens traditional knowledge. Indigenous food systems, characterized by biodiversity and adaptability, provide valuable lessons for modern agriculture. By incorporating Indigenous knowledge, policymakers can develop sustainable food systems that address contemporary challenges. This review underscores the critical role of Indigenous food systems in achieving global food sustainability and resilience, advocating for collaboration and respect for Indigenous knowledge to secure a sustainable future.

**Keywords:** Indigenous food systems, sustainable agriculture, ecological knowledge, biodiversity, food security.

## Introduction

In a world grappling with the environmental consequences of industrialized agriculture and the growing threat of climate change, profound wisdom resonates from the heart of ancient forests and remote landscapes (Metz et al., 2007). This wisdom has been passed down through generations

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and is held by indigenous peoples who have long mastered living in harmony with nature (Diaz, 2021). It is vital to explore journeys into these rich traditions, uncovering the secrets of sustainable living that have nurtured people and the planet for centuries. Indigenous peoples worldwide have built lasting relationships with their food systems, which are inextricably intertwined with their cultural heritage, land, and spirituality. These communities have advocated for sustainable food systems that improve health and well-being and uphold their rights to determine and manage their agricultural and food practices (Jernigan, 2023).

Indigenous food systems are more than just methods of survival. They are intricate tapestries woven from cultural heritage, spiritual beliefs, and ecological knowledge (Cunningham, 2017). Indigenous food systems are deeply rooted in the land and are integral to the overall well-being of communities. By reclaiming and revitalizing their food systems, indigenous peoples address food security challenges and assert their sovereignty over traditional food sources (Sumner et al., 2019). Initiatives such as community gardens, greenhouses, and co-operatives have emerged in response to food deserts imposed on Indigenous peoples, reflecting a shift towards more sustainable and locally controlled food procurement practices (Sumner et al., 2019). This comprehensive knowledge base, often overlooked by modern societies plagued by malnutrition and reduced food biodiversity, underscores indigenous peoples' deep understanding of the local environment.

Integrating traditional and local plant-based foods into modern food systems has been recognized as essential to achieving sustainability, reducing diet-related chronic diseases, and mitigating environmental degradation (Lopes et al., 2023). Indigenous food systems contain extensive and sophisticated knowledge and are often undocumented and underutilized in modern societies experiencing poor nutrition and loss of food biodiversity (Kuhnlein & Chotiboriboon, 2022). By revitalizing indigenous food systems and promoting native plant foods, communities can assert control over their food sources and strengthen their cultural ties to the land (Stein, 2023).

In contrast to the monoculture practices prevalent in modern agriculture, which prioritize high yields from a limited number of crops, indigenous practices emphasize biodiversity. By cultivating diverse crops and applying practices such as intercropping, agroforestry, and rotational farming, indigenous peoples maintain food supplies and enhance ecosystem resilience, thereby contributing to the richness of food-related biodiversity (Argumedo et al., 2021). This biodiversity is a natural defense against pests and diseases, reducing reliance on synthetic pesticides and fertilizers that contribute to environmental degradation (Feledyn-Szewczyk et al., 2016).

Food sovereignty, which emphasizes people's right to healthy and culturally appropriate food produced sustainably, is at the core of indigenous peoples' food systems (Jernigan, 2023). Indigenous peoples have developed indicators to measure their capacity to build sustainable food systems tailored to their local context, recognizing the impracticality of a one-size-fits-all approach (Jernigan et al., 2021). These indicators support efforts to improve food security and serve as a

framework to evaluate and improve the sustainability of indigenous food systems (Domingo et al., 2021). In addition, indigenous food systems are adaptive and responsive to dynamic changes in their environment (Lemke & Delormier, 2017). Traditional ecological knowledge accumulated over generations enables communities to predict environmental changes and adjust their agricultural practices accordingly. The impact of environmental deprivation cannot be underestimated. Indigenous peoples' knowledge systems are critical in transforming food systems and promoting sustainability (Vijayan, 2022).

Indigenous Peoples are acutely aware of the changes in diets forced by environmental changes leading to overexploitation of fish and wildlife stocks, land and water pollution and degradation, urbanization and loss of arable land, invasive species, and climate change (Turner et al., 2013). Traditional and indigenous fruits and vegetables are essential in reshaping food systems that benefit people and the environment (Kennedy et al., 2021). The Task Force on Traditional and Indigenous Food and Nutrition Systems has outlined vital actions that individuals, communities, and countries can take to promote the consumption of these foods, emphasizing their nutritional value and ecological sustainability (Kennedy et al., 2021). By incorporating these foods into diets and promoting their cultivation, indigenous peoples can transform food systems towards greater sustainability and resilience (Adhikari et al., 2019).

Beyond their ecological and cultural significance, indigenous food systems offer valuable lessons for contemporary global food security and sustainability efforts. Integrating indigenous knowledge into mainstream agricultural practices enables policymakers and researchers to improve the resilience and sustainability of modern food systems. Understanding the co-evolution of indigenous food systems with their environment is critical to recognizing the unique contributions these systems make to the broader ecological and social context (Vijayan, 2022). By integrating traditional ecological knowledge into modern food practices, indigenous peoples can increase the sustainability of their food systems and strengthen their cultural identity (Gutierrez et al., 2022).

Emphasizing biodiversity, promoting adaptive management strategies, and respecting traditional practices are necessary steps toward achieving food security in a changing climate. The profound wisdom embedded in indigenous peoples' food systems provides a blueprint for sustainable living that harmonizes human activities with ecological integrity. By recognizing and supporting these systems, communities can learn to nurture their environment while ensuring food security and cultural preservation. Embracing indigenous knowledge is not just a way forward; it is a fundamental necessity to reduce the environmental impact of agriculture and secure a sustainable future for all. In the context of food sovereignty, indigenous peoples are reclaiming their right to determine their own food and farming systems, emphasizing cultural responsibility and connection to the environment (Klopotek et al., 2022). Indigenous food sovereignty initiatives aim to restore and revitalize traditional food practices, allowing communities to take control of

their food sources and practices (Klopotek et al., 2022). By engaging in practices such as companion planting and wild food resource management, indigenous peoples not only preserve their cultural heritage but also offer solutions to improve the sustainability and health of their members (Gutierrez et al., 2022). Promoting traditional food crops has been identified as a sustainable solution to improve local agricultural systems and ensure nutritional security through increased public awareness, political support, and policy interventions (Bisht et al., 2020). The relationship between indigenous peoples and their food systems goes beyond food; it also includes self-determination, livelihoods, health, and cultural heritage (Lemke & Delormier, 2017).

From the above, it can be concluded that Indigenous peoples' sustainable food systems are deeply rooted in cultural heritage, land stewardship, and self-determination. By combining traditional and local foods, reclaiming food sovereignty, and revitalizing local food systems, indigenous peoples address food security challenges and improve health, resilience, and cultural survival. The integration of Indigenous knowledge systems, the promotion of traditional food and integration of Indigenous knowledge systems, the promotion of traditional food crops, and the development of food sovereignty indicators are essential steps towards building a more sustainable and equitable food system for Indigenous peoples.

## **Methodology**

This study adopts a qualitative literature review methodology to investigate the unique domain of sustainable food practices and indigenous knowledge. The methodology involves systematically reading, researching, analyzing, evaluating, and summarizing various scholarly literature from online databases and academic journals. By focusing on scholarly articles, reports, and case studies, the review aims to capture the multiple dimensions of Indigenous food systems, which have been historically marginalized yet have profound implications for contemporary sustainability discourse. Using a semi-systematic or narrative review approach, the review navigates the different conceptualizations and methodologies employed by research groups across different disciplines. This methodological choice is particularly appropriate for a topic as nuanced and diverse as indigenous food systems, allowing for a comprehensive synthesis of insights and perspectives from different scholarly traditions. Central to this methodology is the systematic analysis and synthesis of data collected from the reviewed literature. By closely examining each study's findings, methodologies, and theoretical underpinnings, the research aims to build a cohesive narrative that explains the sustainable food practices embedded in indigenous peoples worldwide. This synthesis not only highlights the practical strategies and techniques these communities use to ensure food security and environmental stewardship but also explores the cultural, spiritual, and ecological dimensions underpinning their food systems.

## **Findings**

The findings from the comprehensive literature review underscore the enormous contribution of Indigenous peoples' food systems to global food sustainability and security. One

of the critical insights gained is the integration of ecological and cultural knowledge inherent in indigenous peoples' food systems. These systems are closely interwoven with practices in harmony with local ecosystems, reflecting a deep understanding of ecological relationships. For example, traditional farming methods often involve crop rotation, intercropping, and agroforestry, which maintain soil fertility and enhance biodiversity. Such practices are supported by cultural traditions and rituals that define sustainable resource management and ensure the long-term health of the environment and the community (Boillat & Berkes, 2013). For example, the Karen Tribe, the largest indigenous group in Thailand, has several communities in Sangkhlaburi District, Kanchanaburi Province. Their settlement in Thailand dates back more than 600 years, with a positive relationship with the Thai state due to their role as protectors of the country's territory, in addition to community leaders successfully strengthening Indigenous traditions and promoting the uniqueness of the tribe to the public up until today (Deepadung & Khammuang, 1997).

The region is a watershed between Thailand and Myanmar, consisting of dense rainforests and mixed forests with rivers that feed the communities year-round. A significant turning point for the Karen people occurred when their settlements, which also served as refuges for rare flora and fauna, became poacher targets. In 1964, the National Forest Protection Policy established clear boundaries around protected forests, incorporating indigenous territories into these protected areas. However, the government offered relocation settlements with educational services and modernization facilities. For example, fixed land use marked by official land demarcations conflicts with traditional crop rotation practices and shifting cultivation, which the Karen people recognize as sustainable practices. However, community leaders managed to strengthen indigenous traditions and promote the uniqueness of the Karen people. Some development missions aim to isolate communities without considering their needs and way of life. For example, permanent land use sanctioned by official land demarcation conflicts with traditional crop rotation practices and shifting cultivation, which the Karen people recognize as sustainable practices.

Research on the Karen people highlights the close relationship between indigenous practices and sustainable food systems. Traditional Karen farming methods, such as crop rotation and shifting cultivation, are examples of sustainable practices developed and refined over centuries. These methods contribute to food security and maintain ecosystem health, reinforcing the central argument of this journal. Moreover, the case study's focus on promoting traditional local foods to combat malnutrition aligns with the journal's aim to explore and advocate for sustainable food systems derived from local knowledge. By documenting and supporting traditional Karen foods, this study provides valuable insights into how indigenous communities can maintain their cultural heritage while addressing contemporary nutrition challenges. In summary, the findings from the Karen community research provide empirical evidence and practical strategies that can inform and enrich the discussion in "From Forest to Table: Examining Indigenous Peoples' Sustainable Food Systems," highlighting the critical role of indigenous practices in achieving sustainable and resilient food systems.

Central to the effectiveness of indigenous food systems is the emphasis on biodiversity. Unlike conventional monoculture practices, indigenous peoples cultivate and harvest crops and utilize wild plants and animals. This biodiversity is a natural buffer against environmental disturbances, pests, and diseases, thus enhancing resilience and ensuring a steady supply of nutritious food amidst changing environmental conditions (Kuhnlein & Receveur, 1996, pp. 426-427). In addition, the adaptability and flexibility inherent in indigenous food systems are critical to their sustainability. These systems have evolved over generations to cope with various environmental conditions, such as fluctuations in rainfall or temperature. Adaptive management practices, rooted in traditional ecological knowledge, allow communities to adjust cultivation techniques and harvesting practices in response to these changes, thus maintaining productivity and ecological balance (Rist et al., 2007, p. 32).

The findings from a comprehensive literature review underscore the significant contribution of indigenous food systems to global food sustainability and security. One of the essential insights obtained is integrating ecological and cultural knowledge inherent in indigenous peoples' food systems. These systems are closely intertwined with practices in harmony with local ecosystems, reflecting a deep understanding of ecological relationships. For example, traditional farming methods often involve crop rotation, intercropping, and agroforestry, which maintains soil fertility and increases biodiversity. These practices are supported by cultural traditions and rituals that determine sustainable resource management, ensuring long-term health for the environment and society (Boillat & Berkes, 2013).

Central to the effectiveness of indigenous food systems is the emphasis on biodiversity. Unlike conventional monoculture practices, indigenous peoples cultivate and harvest crops and utilize wild plants and animals. This biodiversity is a natural buffer against environmental disturbances, pests, and diseases, thus enhancing resilience and ensuring a steady supply of nutritious food amidst changing environmental conditions (Kuhnlein & Receveur, 1996, pp. 426-427). In addition, the adaptability and flexibility inherent in indigenous food systems are critical to their sustainability. These systems have evolved over generations to cope with various environmental conditions, such as fluctuations in rainfall or temperature. Adaptive management practices, rooted in traditional ecological knowledge, allow communities to adjust cultivation techniques and harvesting practices in response to these changes, thus maintaining productivity and ecological balance (Hosen et al., 2020).

Another important finding is the potential for modern applications of indigenous knowledge and practices in contemporary food systems. Policymakers and agriculturalists can develop more sustainable and resilient food production systems by integrating indigenous knowledge into mainstream agricultural practices. Techniques such as soil conservation methods, water management strategies, and biodiversity conservation practices can be adapted and expanded to address current global challenges, including climate change impacts and food security

concerns (Kimmerer, 2013). In conclusion, the synthesis of findings highlights the holistic and sustainable nature of indigenous food systems, ensuring food sovereignty and cultural sustainability and providing valuable lessons for modern agricultural practices. Recognizing and supporting these systems can significantly contribute to global efforts to achieve sustainable development goals related to food security, biodiversity conservation, and climate resilience. Efforts to integrate indigenous knowledge into contemporary food systems should prioritize collaboration, respect for cultural diversity, and equitable partnerships with indigenous peoples to ensure mutual benefit and long-term sustainability.

Indonesia, particularly in West Papua, has a significant Indigenous population comprising 40 distinct ethnic groups (Statistics West Papua, 2021). These groups possess unique histories, ecologies, and traditional dietary cultures, which differ markedly from other regions in Indonesia. The province is primarily covered by natural tropical forests, constituting 89% of the land area (Hansen et al., 2013). For the Papuan people, forests are crucial for food security and are deeply intertwined with their cultural identity (Pattiselanno et al., 2019). Many Papuans, especially those living near forests, rely on hunting and gathering as their primary sustenance (Pangau-Adam et al., 2012; Pattiselanno & Nasi, 2015). However, recent studies indicate that land-use changes in Papua are leading to a dietary shift (Purwestri et al., 2019). Traditional Papuan diets, which include sago, tubers, fresh fruits, wild meat, and fish, are typically simple and use fewer spices compared to the cuisines of other major Indonesian islands (Nurhasan et al., 2022). This shift from sago to rice, driven by Javanese dietary practices, raises several concerns. First, it may negatively impact Papuan health, as their biology is better suited to consuming sago and tubers rather than rice. Second, Papua's land is unsuitable for rice cultivation, resulting in dependency on external food sources and heightened vulnerability to supply disruptions. Finally, the traditional knowledge of producing and processing local staple foods is at risk of being lost.

The High-Level Panel of Experts on Food Security and Nutrition (2020) defines sustainability in food security as the long-term ability of food systems to provide food security and nutrition without compromising future generations' needs. Institutional stakeholders have voiced concerns about land suitability, noting that Papuan land is unsuitable for rice cultivation. From an environmental sustainability standpoint, sago is more resilient to climate change than rice (Bantacut, 2014). Rice cultivation contributes significantly to global agricultural greenhouse gas emissions, accounting for 30 percent of methane and 11 percent of nitrous oxide emissions. In contrast, sago naturally grows in swampy forest areas and can be cultivated without pesticides and chemical fertilizers. Moreover, sago can be re-harvested from the same clump every 2–3 years (Novarianto et al., 2020).

## **Conclusion**

The comprehensive literature review and empirical case studies underline the significant contributions of Indigenous food systems to global food sustainability and security. These systems

are characterized by their deep integration of ecological and cultural knowledge, which promotes sustainable and resilient methods of food acquisition. Traditional practices such as crop rotation, intercropping, and agroforestry, demonstrated by communities like the Karen Tribe in Thailand, maintain soil fertility and enhance biodiversity, ensuring the long-term health of the environment and the community. Biodiversity emerges as a central tenet of Indigenous food systems, offering a natural buffer against environmental disturbances, pests, and diseases, thereby enhancing resilience. Indigenous practices often involve a diverse range of crops, wild plants, and animals, which contrasts sharply with conventional monoculture practices. This biodiversity contributes to ecological balance and ensures a steady, nutritious food supply amid changing environmental conditions.

Adaptability and flexibility are critical components of Indigenous food systems, allowing communities to respond effectively to environmental changes. Traditional ecological knowledge supports adaptive management practices, which enable Indigenous communities to adjust their cultivation and harvesting techniques in response to fluctuations in rainfall, temperature, and other environmental factors. This adaptability ensures continued productivity and ecological balance. Moreover, the potential for modern applications of Indigenous knowledge and practices is substantial. By integrating Indigenous wisdom into contemporary agricultural systems, policymakers and agriculturalists can enhance the sustainability and resilience of global food production. Techniques such as soil conservation, water management, and biodiversity conservation, derived from Indigenous practices, can be adapted to address contemporary challenges like climate change and food security concerns.

The case studies of the Karen Tribe in Thailand and the Indigenous communities of West Papua, Indonesia, provide empirical evidence of the efficacy of traditional food systems. These examples illustrate how traditional farming methods and dietary practices, such as those involving sago and tubers, contribute to food security and maintain ecosystem health. They also highlight the risks of dietary transitions and land-use changes threatening traditional knowledge and food systems. In conclusion, the findings underscore Indigenous food systems' holistic and sustainable nature. These systems ensure food sovereignty and cultural continuity and offer invaluable lessons for modern agricultural practices. Recognizing and supporting Indigenous food systems can significantly contribute to global efforts to achieve sustainable development goals related to food security, biodiversity conservation, and climate resilience. Collaborative efforts, respect for cultural diversity, and equitable partnerships with Indigenous communities are essential to harness the full potential of Indigenous knowledge for a sustainable future.



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# Assessment Land Use Impacts on Water Quality: Insights for Watershed Management in the Doi Suthep-Pui Region, Chiang Mai, Thailand

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## Abstract

Huay Kaew Stream is the primary watercourse that flows into Ang Kaew Reservoir, the main water supply for the Chaing Mai University Campus. Huay Kaew Stream also supplies water to the community along the stream, the Doi Suthep-Pui National Park, and is the source of many essential waterfalls. Moreover, some parts of the stream flow into Mae Kha Canal and Ping River, one of the main rivers in Thailand. This study aims to measure the effect of human activities on the water quality of the Huay Kaew Stream. Water quality data was collected from twelve sampling sites along Huay Kaew Stream between April (dry season) and May (wet season) 2024. Water quality was assessed using in-situ measurements and laboratory analysis of key physico-chemical parameters. The land use data for each sampling point was obtained from GIS. The results indicated that both natural processes and human activities influence the Huay Kaew Stream. Upstream areas had low pollutant levels due to minimal human interference and natural filtration. Midstream areas showed a moderate increase in turbidity, electrical conductivity, and nutrients from agricultural runoff and wastewater. At the same time, downstream areas suffered from elevated pollutant levels. Therefore, this study is expected to present valuable information for water management and pollution control measures to preserve water quality in the Huay Kaew sub-watershed.

Keywords: water quality, physico-chemical parameters, Huay Kaew Stream, human impact, land use.

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## **Introduction**

The water demand is increasing due to population growth, urbanization, and economic development. However, the amount of water available to meet this demand is limited. As a result, the water demand cannot be fully satisfied. Consequently, allocating limited water resources has become a significant concern for many countries (Boretti & Rosa, 2019).

Doi Suthep-Pui National Park is in Chiang Mai province in northern Thailand. The national park covers an area of 261.06 km<sup>2</sup> and has an altitude ranging from 400 to 1,600 m above sea level. Significant forest types are deciduous and mixed deciduous forests at altitudes below 1,000 m and hill evergreen forests at altitudes above 1,000 m. Doi Suthep-Pui plays a substantial role in the economy of Chiang Mai City and retains a highly diverse flora and fauna. Huay Kaew Stream drains the eastern slope of Doi Suthep and is the mainstream that flows into Ang Kaew Reservoir, the water supply for the Chiang Mai University campus. Huay Kaew also supplies water for the community along the stream, which is used in the national park, and some parts flow into Mae Kha Canal and Ping River. Huay Kaew Stream creates some waterfalls along the stream, including Wang Bua Ban, Pha Ngoep, Huay Kaew, Sai Yod, and Mon Tha Than waterfalls, which many tourists come to visit every year. The amount of water used has increased in farming, gardening, household, and tourism in the surrounding area and the lower river basin. Since 2005, many check dams have been built along the Huay Kaew Stream (more than 214 dams). A portion of forest land has been converted into agricultural land for growing vegetables and fruits. The land has been transferred from villagers to capitalists. Additionally, there is an issue with inappropriate shops being established in the Doi Suthep-Pui National Park area. Tourism in some waterfall tourist spots and the temporary residence of gardeners and farmers in the upstream area cause the water quality to not meet standards in some indices (Department of National Park Wildlife and Plant Conservation, 2022). Moreover, Huay Kaew is a small watershed with very high water demand, and the stream runs dry from March to May for some years. In previous studies, the water quality of Huay Kaew Stream was classified as Class 2 under the Standard of Water Quality of Thailand (Abu Saleh, 1996). Furthermore, Charoon (1998) found that during the dry season, when the water level was low, Huay Kaew had biochemical oxygen levels higher than the standard. This study will investigate the stream's water quality using physico-chemical indicators of the Huay Kaew watershed. This paper is part of a thesis entitled Assessment of Water Quality and Balance in Huay Kaew Watershed, Chiang Mai Province, Thailand.

## **Objective**

- To investigate the water quality of streams along the Huay Kaew watershed.
- To examine the characteristics of land use impact on water quality.

## **Methodology**





In-situ measurements for water quality were conducted using a multiparameter, allowing for the collection of real-time data on various water quality parameters. Some water samples were collected for further laboratory analysis using established chemical protocols.

## **Study Areas and Sampling Methods**

Huay Kaew Stream is a perennial stream that stretches for 13 kilometers and drains east into the Ping River. It originates from the upper part of the Kog Mah watershed and Chang Kian Valley, located in Doi Suthep-Pui National Park above 1,500 meters. The stream then flows through Huay Kaew village and Ang Kaew Reservoir, Chiang Mai University. The watershed area of this Huay Kaew stream is 8.6 square kilometers (Figure 1). Twelve study sites were selected along the Huay Kaew and its tributary streams. Study sites 1 to 4 are located



upstream (headwater). Study sites 5 to 8 are in the middle of the stream, while study sites 9 and 12 are located downstream of the Huay Kaew watershed, as shown in Table 1 and Figure 1. The water samples were collected in two months and different seasons: April (dry season) and May (wet season) in 2024. Water samples were collected using the grab sampling method with water sample bottles.

**Table 1 Sampling sites**

| No. | Name of Sites | Detail points            | Latitudes and Longitudes         | Elevation (m) | Image   |
|-----|---------------|--------------------------|----------------------------------|---------------|---|
| 1   | <b>TP</b>     | Theptharo, headwater     | 18°49'34.70" N<br>98°53'46.67" E | 1,457         |    |
| 2   | <b>T</b>      | Trail Doi Pui, headwater | 18°49'32.97" N<br>98°53'27.50" E | 1,582         |   |
| 3   | <b>SN</b>     | Saovany, headwater       | 18°49'5.15" N<br>98°53'34.05" E  | 1,518         |  |
| 4   | <b>SK</b>     | Sunku, headwater         | 18°49'0.02""N<br>98°53'46.96"E   | 1,481         |  |



|    |             |                       |                                  |       |   |
|----|-------------|-----------------------|----------------------------------|-------|---|
| 5  | <b>HKM</b>  | Huay Khok Ma          | 18°49'19.00"N<br>98°54'48.00"E   | 1,009 |    |
| 6  | <b>HK1</b>  | Huay Kaew 1           | 18°49'2.13"N<br>98°54'43.07"E    | 1,045 |    |
| 7  | <b>HKK1</b> | Huay Ku Khao 1        | 18°48'38.25" N<br>98°56'1.80" E  | 605   |   |
| 8  | <b>MTT</b>  | Montha Than waterfall | 18°49'2.28"N<br>98°55'19.59"E    | 786   |  |
| 9  | <b>WBB</b>  | Wangbuaban waterfall  | 18°48'43.30"N<br>98°56'28.79"E   | 467   |  |
| 10 | <b>HKW</b>  | Huay Kaew waterfall   | 18°48'42.36" N<br>98°56'39.72" E | 397   |  |

|    |             |                |                                 |     |   |
|----|-------------|----------------|---------------------------------|-----|---|
| 11 | <b>HK2</b>  | Huay Kaew 2    | 18°48'37.19" N<br>98°56'48.19"E | 355 |  |
| 12 | <b>HKK2</b> | Huay Ku Khao 2 | 18°48'23.72"N<br>98°56'50.73" E | 353 |  |

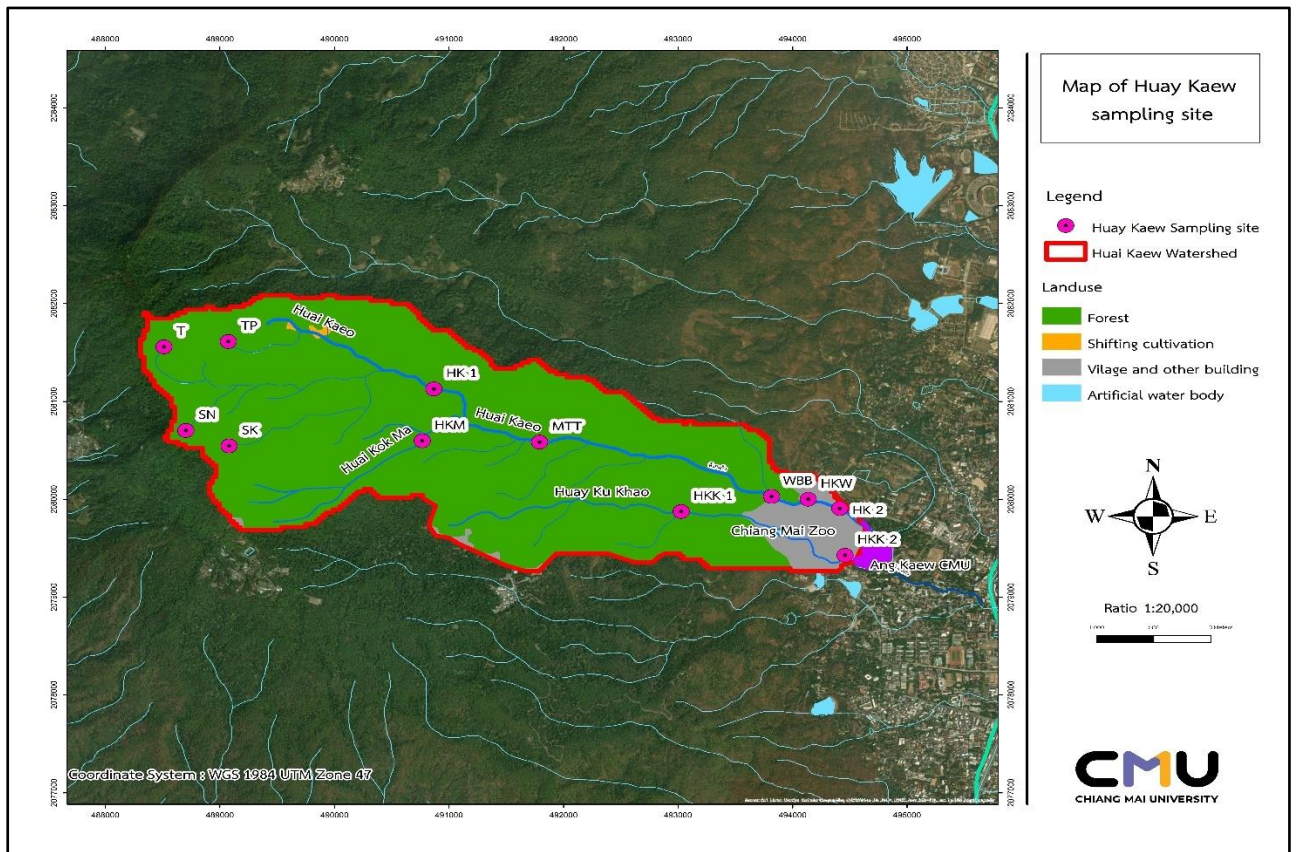


Figure 1 The sampling site of Huay Kaew Stream



Some physical and chemical properties of water were determined at the sampling sites. Water temperature ( $^{\circ}\text{C}$ ), pH, electro-conductivity ( $\mu\text{S cm}^{-1}$ ), total dissolved solids (TDS,  $\text{mg L}^{-1}$ ), and Turbidity (NTU) were measured by the multiparameter water quality meter (Horiba U50). The Winkler titration method determined dissolved oxygen (DO,  $\text{mg L}^{-1}$ ) and biochemical oxygen demand (BOD5,  $\text{mg L}^{-1}$ ). The concentrations of nutrients like nitrate-nitrogen ( $\text{mg L}^{-1} \text{NO}_3^{-}\text{-N}$ , ascorbic acid method), orthophosphate ( $\text{mg L}^{-1} \text{PO}_4^{3-}$ , cadmium reduction method), and ammonia-nitrogen ( $\text{mg L}^{-1} \text{NH}_3\text{-N}$ , the Nessler method) will be measured using the spectrophotometer. All parameters will be analyzed according to Thailand's surface water quality standard (PCD, 1994).

**Table 2 Parameters and Methods for Analysis of Water Quality**

| Parameters   | Methods of water quality analysis  |
|--|--|
| Air temperature<br>Water temperature                   | Thermometer  |
| pH<br>Conductivity<br>Turbidity<br>TDS<br>DO           | Field measurement: Multiparameter Water quality meter (Horiba U50)   |
| Nitrate-Nitrogen<br>Orthophosphate<br>Ammonia-Nitrogen | Using the spectrophotometer (HACH brand, model DR/2400)<br>Ascorbic Acid Method<br>Cadium reduction method<br>Nessler method |

### Impact on water quality and land use

The study sites were selected based on criteria that included different land use types, elevations, and the potential of tributary streams. All sampling sites used secondary data from land use maps and sites surveyed in the Huay Kaew sub-watershed. Landsat 8 satellite imagery was downloaded from the United States Geological Survey (USGS) and analyzed using the ArcGIS software. This software imports Google data into ArcGIS, adds water quality monitoring sampling sites, and saves them as shapefiles. These shapefiles are modified based on Google Maps observations, ensuring no polygon overlaps or gaps. Land use areas are calculated in square meters and analyzed in Excel to determine the percentage of each land use type. Finally, the data was used to create maps for and analyze the correlation between land use and water quality.

### Data analysis

The researcher calculates the average value using data from field measurements and laboratory analyses. Later, the researcher compares this value to the surface water quality standards set by the Pollution Control Department, Ministry of Natural Resources and Environment.

## Findings and Discussion

**Table 3 The water quality of Huay Kaew in April 2024 (Dry season)**

| Parameter                | Average |        |         |         |          |          |               |          |          |           |           |            | Average for all sites |
|--------------------------|---------|--------|---------|---------|----------|----------|---------------|----------|----------|-----------|-----------|------------|-----------------------|
|                          | 1<br>TP | 2<br>T | 3<br>SN | 4<br>SK | 5<br>HKM | 6<br>HK1 | 7<br>HKK<br>1 | 8<br>MTT | 9<br>WBB | 10<br>HKW | 11<br>HK2 | 12<br>HKK2 |                       |
| Air Temperature (°C)     | 25.5    | 24     | 26      | 27.8    | 27       | 29.8     | 36            | 29       | 29       | 33        | 33        | 36         | 29.7                  |
| Water Temperature(°C)    | 19      | 18.8   | 19.2    | 20.2    | 20.4     | 20.5     | 25.9          | 23       | 22.8     | 23.7      | 25.2      | 26.3       | 22.1                  |
| pH                       | 5.6     | 6.9    | 7.6     | 7.9     | 8.4      | 7.1      | 8.2           | 8.3      | 7.6      | 8.2       | 7.8       | 8.2        | 7.7                   |
| Conductivity (µS/cm)     | 39.3    | 43     | 39.3    | 53.3    | 39.2     | 32       | 97.7          | 33.3     | 42.7     | 43        | 76        | 356.3      | 74.6                  |
| TDS (mg/L)               | 25.3    | 28     | 25.3    | 34.7    | 24.7     | 21       | 63.7          | 22       | 27.7     | 28        | 49.7      | 232        | 48.5                  |
| Turbidity (NTU)          | 4.1     | 4.1    | 1.2     | 9.5     | 8.7      | 3.6      | 17.6          | 6.9      | 0.2      | 1.7       | 4.1       | 7.4        | 5.8                   |
| DO(mg/L)                 | 4.6     | 7.0    | 6.9     | 6.5     | 6.7      | 6.8      | 6.0           | 6.5      | 6.4      | 7.3       | 5.6       | 4.3        | 6.2                   |
| BOD (mg/L)               | 1.1     | 4.3    | 2.8     | 1.9     | 1.6      | -0.6     | 1.6           | 1.0      | 0.9      | 0.4       | 3.1       | 2.8        | 1.7                   |
| NH <sub>3</sub> -N(mg/L) | 0.2     | 0.1    | 0.1     | 0.2     | 0.1      | 0.1      | 0.2           | 0.1      | 0.1      | 0.1       | 0.2       | 0.5        | 0.2                   |
| NO <sub>3</sub> -(mg/L)  | 0.4     | 1.5    | 0.2     | 1.7     | 1.9      | 0.8      | 0.3           | 0.4      | 0.5      | 0.2       | 0.7       | 0.5        | 0.8                   |
| PO <sub>4</sub> 3-(mg/L) | 0.2     | 0.3    | 0.2     | 0.6     | 0.2      | 0.8      | 0.2           | 0.1      | 0.2      | 0.2       | 0.3       | 0.6        | 0.3                   |

The water quality analysis for all 12 sampling points of the Huay Kaew stream in April 2024 (dry season) is summarized in Table 3. The air temperature ranged from 24°C (site T) to 36°C (site HKK2). The water temperature varied from 18.8°C (site T) to 26.3°C (site HKK2). pH levels ranged between 5.6 (site TP) and 8.4 (site HKM). The electrical conductivity ranged from 32 (site HK1) to 356.3 µS/cm (site HKK2). Total Dissolved Solids (TDS) were between 21 (site HK1) and 232 mg/L (site HKK2). Turbidity levels ranged from 0.2 (site WBB) to 17.6 NTU (site HKK1). Dissolved oxygen levels varied from 4.3 mg/L (site HKK2) to 7.3 mg/L (site HKM). BOD values ranged from -0.6 mg/L (site HK1) to 4.3 mg/L (site T). Ammonia-nitrogen concentrations were between 0.1 mg/L (site T) and 0.5 mg/L (site HKK2). Nitrate-nitrogen levels ranged from 0.2 mg/L (site SN) to 1.9 mg/L (site HKM), and orthophosphate levels ranged from 0.1 mg/L (site MTT) to 0.8 mg/L (site HK1).

**Table 4 The water quality of Huay Kaew in May 2024 (wet season)**

| Parameter                | Average |        |         |         |          |          |           |          |          |           |           |            | Average for all sites |
|--------------------------|---------|--------|---------|---------|----------|----------|-----------|----------|----------|-----------|-----------|------------|-----------------------|
|                          | 1<br>TP | 2<br>T | 3<br>SN | 4<br>SK | 5<br>HKM | 6<br>HK1 | 7<br>HKK1 | 8<br>MTT | 9<br>WBB | 10<br>HKW | 11<br>HK2 | 12<br>HKK2 |                       |
| Air Temperature (°C)     | 23      | 22.9   | 23      | 19.5    | 25.8     | 25.8     | 31.2      | 30       | 27.2     | 26        | 30        | 32         | 26.4                  |
| Water Temperature (°C)   | 20      | 20.2   | 20.3    | 18.9    | 22.3     | 21.7     | 24.2      | 24.4     | 24.7     | 26        | 26        | 27.5       | 23                    |
| pH                       | 7.2     | 8      | 7.9     | 7.9     | 8        | 7.2      | 6.8       | 8.2      | 7.7      | 8.2       | 7.8       | 7.8        | 7.7                   |
| Conductivity (µS/cm)     | 21      | 42     | 44.7    | 55.7    | 38.3     | 33       | 82        | 34       | 46.3     | 47        | 107.7     | 403.3      | 79.6                  |
| TDS (mg/L)               | 14      | 27.7   | 29.3    | 36      | 25       | 22       | 53        | 22       | 30       | 31        | 68.3      | 29         | 32.3                  |
| Turbidity (NTU)          | 2.2     | 11.9   | 4.1     | 12.4    | 6.2      | 6.5      | 8.8       | 8.8      | 2.1      | 3.3       | 6.1       | 2.6        | 6.3                   |
| DO(mg/L)                 | 6.2     | 5.8    | 5.6     | 5.9     | 6.2      | 5.9      | 6         | 5.8      | 4.7      | 6.5       | 3.7       | 5.7        | 5.7                   |
| BOD (mg/L)               | 0.4     | 1.9    | 2.8     | 2.3     | 0.5      | 0.5      | -3.6      | 1.8      | 0.5      | 2.1       | 1.5       | 1.5        | 1                     |
| NH <sub>3</sub> -N(mg/L) | 0.1     | 0.3    | 0.3     | 0.2     | 0.2      | 0.1      | 0.3       | 0.1      | 0.3      | 0.4       | 0.4       | 1.5        | 0.3                   |
| NO <sub>3</sub> -(mg/L)  | 1.5     | 0.3    | 0.6     | 0.8     | 0.8      | 1.3      | 1.5       | -0.2     | 0.4      | 0.6       | 0.4       | 1.1        | 0.8                   |
| PO <sub>4</sub> 3-(mg/L) | 0.3     | 0.3    | 0.2     | 0.2     | 0.2      | 0.3      | 0.3       | 0.2      | 0.4      | 0.5       | 0.5       | 1.1        | 0.4                   |

In May 2024, during the wet season, air temperatures ranged from 19.5°C (Site 4 SK) to 32°C (Site 12 HKK2), while water temperatures varied between 18.9°C (Site 4 SK) and 27.5°C (Site 12 HKK2). pH values ranged from 6.8 (Site 8 HKK1) to 8.2 (Site 10 HKW). Electrical conductivity levels spanned from 21 (Site 1 TP) to 403.3 µS/cm (Site 12 HKK2). Solids (TDS) ranged from 14 (Site 1 TP) to 68.3 mg/L (Site 11 HK2), and turbidity varied from 2.1 (Site 9 WBB) to 12.4 NTU (Site 4 SK). DO was between 3.7 mg/L (Site 11 HK2) and 6.5 mg/L (Site 10 HKW). BOD values ranged from -3.6 mg/L (Site 7 HKK1) to 2.8 mg/L (Site 3 SN). Ammonia-nitrogen 0.1 mg/L (Site 1 TP) to 1.5 mg/L (Site 12 HKK2), nitrate-nitrogen from -0.2 (Site 8 MTT) to 1.5 mg/L (Site 1 TP), and phosphate levels varied from 0.2 mg/L (Site 8 MTT) to 1.1 mg/L (Site 12 HKK2).

The results of physio-chemicals at each site in both seasons. In wet and dry seasons (Tables 3-4) revealed a distinct spatial pattern. Upstream source sites (TP, T, SN, SK) consistently exhibited the lowest water temperatures (18.8-27.5 °C) due to forest cover shading. However, downstream site HKK2 displayed high temperatures caused by environmental conditions and sampling time. While pH remained within the natural range (slightly alkaline), a slight increase was observed in May (6.8-8.2) compared to April (5.6-8.4). Notably, conductivity and total dissolved solid (TDS) increased across all sites in May, likely due to wet season surface runoff mobilizing minerals. Site TP significantly rose in May (21 µS/cm to 403.3 µS/cm), suggesting potential pollutant leaching from nearby waste during rainfall. Turbidity also generally increased in May, reflecting higher erosion from runoff. DO levels were concerningly low in both months, particularly May (3.7-6.5 mg/L), possibly due to high water temperatures and increased organic matter decomposition. BOD values were lower in May, potentially diluted by the wet season's increased water flow, although some sites still indicated organic matter input. Ammonia nitrogen also had higher concentrations in May due to surface runoff mobilizing decomposing organic matter. Nitrate-nitrogen (NO<sub>3</sub>-N) was slightly lower in May, potentially due to increased flow or plant uptake. Finally, orthophosphate (PO<sub>4</sub>) concentrations increased in May, likely due to surface runoff mobilizing phosphates from various sources. These findings emphasize the interaction between seasonal variations and human activities in shaping the water quality of the Huay Kaew Stream.

The land use in the Huay Kaew watershed was forest land, which covered an average of 93.90 percent (evergreen forests), deciduous forests, and urban (5.90 percent), while agricultural land coverage was 0.20 percent. In this study, the upstream site was generally covered with evergreen forests, which have better water quality as shown there were cooler temperatures, lower conductivity, total dissolved solids (TDS), and potentially higher DO. Land use transitions, such as agriculture and villages near HK1 introduce indicators of potential pollution (increased EC, TDS, NH<sub>3</sub>-N). Downstream urban areas (HK2) and the zoo (HKK2) have the most significant negative impact, with likely contributions to higher temperatures, increased conductivity, TDS, turbidity, organic matter, nutrients, and lower DO levels.

**Table 5: Comparison of Huay Kaew Stream Water Quality to Thailand's Standards (April & May 2024)**

| Parameter                            | Time  | Range        | Standard*                                    | Potential Impact if Exceeded  |
|--------------------------------------|-------|--------------|--|---|
| Water Temp (°C)                      | April | 18.8° - 26.3 | None   | It is not a direct water quality concern at these levels.   |
|                                      | May   | 19.5 - 32    |  |   |
| pH                                   | April | 5.6 - 8.4    | 5.5 - 9.0                                    | Very acidic or alkaline conditions can harm aquatic life.   |
|                                      | May   | 6.8 - 8.2    |  |   |
| Conductivity (µs/cm)                 | April | 32 - 356.3   | None   | High EC can indicate increased salinity or mineral content, potentially impacting sensitive aquatic life.     |
|                                      | May   | 21-403.3     |  |   |
| TDS (mg/L)                           | April | 0.2 -17.6    | None   | High TDS can affect water taste and may be unsuitable for some agricultural uses.                             |
|                                      | May   | 14 - 68.3    |  |   |
| Turbidity (NTU)                      | April | 0.2 - 17.6   | None   | High turbidity can reduce light penetration, affecting photosynthesis and aquatic life.                       |
|                                      | May   | 2.1 -12.4    |  |   |
| DO (mg/L)                            | April | 4.3 -7.3     | Type 2 < 6.0<br>Type 3 < 4.0<br>Type 4 < 2.0 | Low DO levels observed, particularly downstream (HKK2), can harm aquatic life.                                |
|                                      | May   | 3.7 - 6.5    |  |   |
| BOD (mg/L)                           | April | -0.6 – 4.3   | Type 2 > 1.5<br>Type 3 > 2.0<br>Type 4 > 4.0 | High BOD indicates high organic matter decomposition, potentially reducing DO levels.                         |
|                                      | May   | -3.6 - 2.8   |  |   |
| NH <sub>3</sub> -N (mg/L)            | April | 0.1 - 0.5    | < 0.5  | Potential for exceeding standards depending on stream classification, impacting aquatic life.                 |
|                                      | May   | 0.1 - 6      |  |   |
| NO <sub>3</sub> -N (mg/L)            | April | 0.2 - 1.9    | < 5.0  | Generally, no concern appears at these levels, but high levels can contribute to eutrophication.              |
|                                      | May   | -0.2 -1.5    |  |   |
| PO <sub>4</sub> <sup>3-</sup> (mg/L) | April | 0.1 – 0.8    | None   | Potential for exceeding standards depending on stream classification and promotion of excessive algae growth. |
|                                      | May   | 0.2 – 1.1    |  |   |

\*Surface Water Quality Standard of Thailand, PCD (1994).

## Conclusion

The water quality of Huay Kaew Stream in both seasons at sampling sites had air temperatures ranging from 19.5°C to 36 °C, water temperatures from 18.8 to 27.3°C, pH 5.6 - 8.4, Conductivity 21 µS/cm - 403.33 µS/cm, TDS 14 mg/L - 232 mg/L. Turbidity ranged from 0.2 to 17.6 NTU. Dissolved Oxygen levels were between 4.3 -7.3 mg/L, BOD was between - 0.6 mg/L to 4.3 mg/L. Ammonia-nitrogen levels were between 0.05 to 1.53 mg/L, nitrate-

nitrogen levels from 0.1 to 1.9 mg/L, and orthophosphate levels ranged from 0.1 to 1.11 mg/L. The water quality of the Huay Kaew Stream changes as it flows. Most physicochemical parameters were within standard limits. Sunlight warms the water, causing the temperature to rise downstream gradually. The stream gathers minerals as it travels. This is shown by higher conductivity and TDS. Turbidity varies depending on location, with factors like waterfalls and seasonal runoff playing a role. Lower DO levels downstream are likely caused by warmer water and breakdown of organic matter, potentially from wastewater discharges near communities and the zoo. While some organic matter upstream might be natural (forest), downstream sites show a consistent influence, suggesting human activity as a source. Nutrient levels also rise downstream, possibly due to upstream agricultural activity or wastewater, with the headwaters (site TP) potentially contributing nutrients, especially during the wet season when runoff increases. Land use also significantly influences Huay Kaew Stream's water quality. However, the water quality of Huay Kaew Stream does not exceed the water quality standard.

### **Recommendation**

1. This study will be a database line for planning sustainable water management for the Huay Kaew watershed in the future.
2. Sharing research findings is crucial for empowering tribal communities to manage watersheds and preserve water quality.

Continue monitoring water quality year-round at various locations to track spatial and seasonal variations and assess the effectiveness of mitigation measures.

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# SILENT STRUGGLES: HEALTHCARE BARRIERS FOR BANGKOK'S GBMSM ENGAGED IN CHEMSEX

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## Abstract

The rise of chemsex, involving drug use before or during sexual activities, has become prevalent among gay and bisexual men who have sex with men (gbMSM). This practice increases vulnerability to HIV and other sexually transmitted infections (STIs) due to high-risk behaviors and related mental health issues. Despite these risks, societal stigma and the criminalization of drug use hinder access to appropriate healthcare and support for this community. This study examines the obstacles encountered by the gbMSM chemsex community in Bangkok, Thailand, in accessing healthcare services. Secondary data was sourced from various organizations, including APCOM and INPUD, to provide insight into the global and regional aspects of chemsex and its associated challenges in Asia. Furthermore, primary data was gathered through interviews with researchers, service providers, and NGO experts to identify specific barriers to healthcare access. The analysis focused on accessibility, availability, and acceptability—critical factors for ensuring equitable healthcare for marginalized groups. The findings revealed several barriers to healthcare access for this community, such as social stigma, a lack of understanding and education among service providers, and legal consequences. Addressing these challenges requires non-judgmental, evidence-based, and rights-based approaches that prioritize harm reduction services, which are crucial in supporting the health needs of chemsex participants.

**Keywords:** chemsex, gbMSM, HIV, STIs, mental health, health care services

## Introduction

Chemsex, also known as "party and play" or "hi fun," is a growing trend in Thailand, particularly within the gbMSM community. This practice involves using drugs to enhance and

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prolong sexual experiences and is sometimes linked with clubbing, BDSM, and fetish scenes. Polydrug use is common, with methamphetamine, ketamine, GHB, and GBL being typical drugs. Beyond euphoria, motivations include intimacy, enhanced pleasure, connection, and adventurous activities, making chemsex a complex phenomenon driven by physical, emotional, and social incentives. In Thailand, the trend has become more apparent due to similar factors contributing to its rise among gbMSM. This subculture views these drugs as party drugs with perceived lesser harm compared to substances like heroin and crack. The phenomenon has led to significant public health concerns, including HIV, STDs, mental illness, and drug addiction, necessitating targeted interventions. The rise in recreational drug use among MSM in Thailand, which increased from 20 percent in 2017 to 35 percent in 2019, highlights the urgent need for health strategies to address these risks while combating societal stigma and legal challenges faced by this community (Muccini et al., 2021).

## **Methodology**

The research employs qualitative methods to identify healthcare barriers for the gbMSM chemsex group. Initially, secondary data reviews the cultural background and barriers in Thailand's chemsex community. This data helps categorize barriers for interview outlines. The researcher invited seven experts, including service providers and NGO specialists, for interviews conducted both online and face-to-face. Using Leah Steele's (2007) "Accessibility, Availability, and Acceptability" framework, the study examines obstacles: financial issues, transportation problems, lack of time, difficulty finding help, and negative attitudes from service providers. Data analysis reveals the relationship between gbMSM and healthcare concerns in Bangkok.

## **Conceptual Framework**

### ***Chemsex as a Coping Mechanism***

Belonging to an LGBTQ sexual minority group in a heteronormative and homophobic society can cause significant daily stress (Brunt et al., 2023). Chemsex is often utilized as a way to handle tough emotions and to escape mainstream culture (Pollard et al., 2018). However, participating in chemsex exposes users to various mental and physical health risks, such as unprotected sex and substance abuse. Contracting HIV or other STDs can further exacerbate mental health issues, necessitating healthcare support.

### ***Barriers to Accessing Healthcare***

Discrimination on multiple levels creates substantial obstacles to healthcare access. Homophobia and heteronormativity due to sexual minority status are common issues. Chemsex



involvement leads to societal stigma against drug users, coupled with criminalization, making it challenging to seek help. Additionally, those who contract HIV must deal with AIDS-related stigma. This discrimination fosters self-stigmatization, causing gbMSM chemsex users to feel undeserving of help and reluctant to seek it (INPUD, 2019). Integrated health-based harm reduction services are essential, including treatment and consultation from professionals who understand the gbMSM chemsex context. To better understand these barriers more fully, consider three stages of healthcare access for chemsex users: prior to accessing the system, during help-seeking, and throughout treatment. Before accessing the system, users often fear societal judgment, traditional family values, and negative media portrayals of homosexuality and drug use. Legal repression is also crucial (Newland & Kelly-Hanku, 2021). During help-seeking, they must identify their needs, face discrimination and stigma, and ensure confidentiality. A supportive network and community are vital during treatment, and ongoing advocacy for positive change is necessary (INPUD, 2019) (see Figure 1).

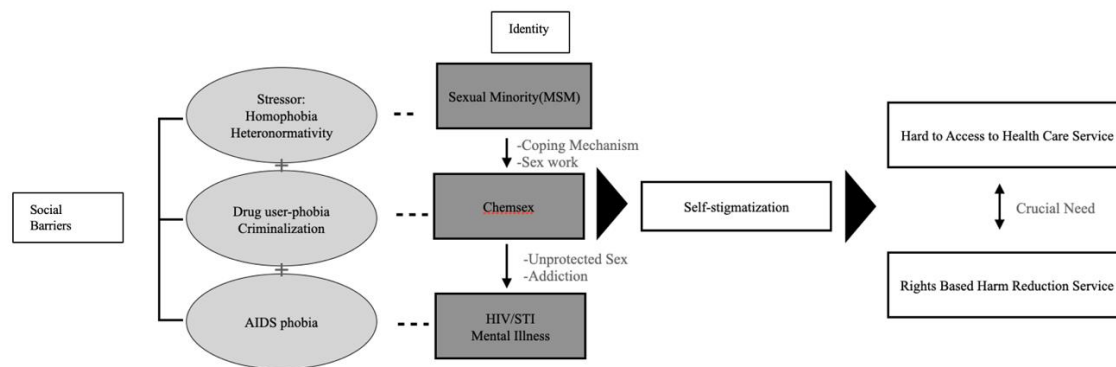


Figure 1: Conceptual framework

### ***Chemsex and Public Health Concerns***

This study explores the multifaceted aspects of chemsex and its impact on the health of gbMSM communities, focusing on public health concerns, the intersection of sexual minority status and drug use, and the obstacles faced by chemsex users and service providers in Bangkok, Thailand (Brunt et al., 2023). The analysis indicates that chemsex is a complex issue influenced by social, cultural, and legal factors. Criminalization of drug use and the fear of police violence are significant barriers to healthcare access. Stigma and discrimination further complicate these challenges, making it difficult for users to seek appropriate care. Limited perspectives from lawmakers and government officials, including the Royal Thai Police's anti-narcotics bureau, highlight the need for policy and legal reforms (Pollard et al., 2018).

### ***Intersection of Sexual Minority Status and Drug Use***

The connection between sexual minority status and drug use reveals how internalized homophobia, peer pressure, and the pursuit of intimacy and pleasure contribute to the prevalence of chemsex (Brunt et al., 2023). The barriers to healthcare services are multifaceted, encompassing legal, societal, and self-imposed obstacles, and necessitate a comprehensive approach.

***Rights-Based Harm Reduction Approach***

This study advocates for a rights-based harm reduction approach, emphasizing the dignity and autonomy of chemsex users. This approach promotes non-judgmental, holistic, and culturally sensitive care, challenging punitive and moralistic policies that hinder access to essential services. It calls for interventions based on medical necessity rather than criminalization (Pollard et al., 2018). Addressing the health needs of gbMSM chemsex users in Bangkok and beyond requires a multifaceted strategy, including policy reform, targeted healthcare services, and a commitment to human rights. By adopting a rights-based harm reduction approach, chemsex users can receive the support and care they need, free from stigma and discrimination (Csete et al., 2021).

**Findings**

The findings from data collection are based on research questions and a conceptual framework. Interviews with NGO workers, service providers, and researchers explored barriers chemsex users face before, during, and after accessing healthcare. Data was analyzed using the 3As framework (Availability, Accessibility, and Acceptability) to identify practical issues in healthcare services(See Table 1).

| 3As           | Elements   | For chemsex users  |
|---------------|--|--|
| Accessibility | Financial, transportation, no time                           | Lost their job, lack of information of the affordable services |
| Availability  | Hard to find professional help<br>Hard to make a reservation | Lack of friendly clinics                                       |
| Acceptability | Negative attitude from service providers                     | Discrimination, stigmatization                                 |

Table 1: 3As framework

Chemsex users face multiple barriers before accessing healthcare, including environmental factors, self-doubt, media influence, and legal consequences. Heavy punitive laws

for drug users in Thailand exacerbate these challenges. The chemsex scene, deeply rooted in the gay community, poses various health risks, and navigating these factors to find practical solutions is complex. Interviews revealed that users struggle with societal values, fear of identity exposure, media stereotypes, and legal repercussions.

The social and cultural environment, heavily influenced by Buddhist values, contributes to the stigmatization and fear of judgment chemsex users face. Fear of disclosing drug use to family members, who play a crucial role in recovery, further complicates access to care. Users also face challenges related to identity, with low self-esteem and fear of judgment deterring them from seeking help. Media portrayal of chemsex often lacks understanding and empathy, perpetuating stigmatization and secrecy. Legal repercussions and moral anxiety add to these barriers, as users fear punitive actions and lack of knowledge about their rights.

The findings highlight the multifaceted barriers chemsex users face in accessing healthcare, including societal and cultural values, fear of identity exposure, media stereotypes, and legal consequences. Addressing these challenges requires a multifaceted strategy, including policy reform, targeted healthcare services, and a commitment to human rights. Adopting a rights-based harm reduction approach ensures that chemsex users receive the necessary support and care, free from stigma and discrimination (Brunt et al., 2023; Pollard et al., 2018).

## **Discussion**

After interviewing NGO workers, service providers, and researchers in Bangkok, the researcher discovered that healthcare services for MSM chemsex users have improved due to community-led advocacy. However, accessing healthcare remains challenging due to stigmatization and discrimination. These factors lead to judgmental attitudes from service providers and self-stigmatization among chemsex users. Barriers include family values, religious beliefs, media portrayals, and legal consequences. Additionally, LGBTQI+ identity, drug use behavior, and fear of disease contribute to the complexity. Each user's experience is unique, influenced by personal history, social support, and available resources, highlighting the need for healthcare providers to recognize these individual differences.

## **Conclusion and Suggestions**

The study highlights the importance of rights-based harm reduction services. Chemsex users often fear seeking healthcare due to judgmental services and punitive laws. Communities are actively working to provide better information, protect users' rights, and build supportive networks. To summarize, Although advocacy has brought some improvements, discrimination and stigma still prevent people from getting the care they need. Understanding chemsex users' unique

experiences is crucial. Rights-based harm reduction services are essential to address the fears related to judgmental attitudes and punitive laws, ensuring users receive the care they need. It is imperative to continue promoting policy reform and targeted healthcare services, creating a supportive environment free from stigma and discrimination (Brunt et al., 2023; Pollard et al., 2018).

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# HISTORICAL EVOLUTION OF ENVIRONMENTAL POLICIES ON THE PASIG RIVER

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## Abstract

This paper presents a comprehensive historical analysis of the environmental policies concerning the Pasig River in the Philippines. It documents the evolution of these policies from the early 1990s up until the current year of 2024. The Pasig River once served as a primary passageway for trade and livelihood. However, industrialization and urbanization led to the river's eventual degradation and biological death. The study collects policy responses across different presidential administrations from 1986 to 2024. It will discuss the significant issues faced by rehabilitation efforts throughout the years and the environmental policies that were created during each term. Multiple data sources were strategically collated and examined. Thus, this historical documentation offers valuable insights into the background, successes, and limitations of past policies. Since data in the Philippines tends to be dispersed and not easily accessible, the paper may benefit researchers or entities looking to understand the river more deeply. This aims to provide a solid foundation for future research. Lastly, the study highlights how fluctuating political will and policy priorities have shaped environmental policy, as seen in the case of the Pasig River. It concludes by emphasizing how environmental solutions require a more long-term approach, thus highlighting the need for consistent and dedicated approaches to ensure sustainable restoration.

**Keywords:** Pasig River; Environmental policy; Policy evolution; Sustainability

## Introduction

The Pasig River in the Philippines is located at the heart of Metro Manila, over 20 kilometers long across several cities. Historically, this has served as a crucial and vital aspect in the region as well as the country's trade, transportation, and livelihood. The river flows from the largest lake in the country, Laguna de Bay, and traverses multiple cities until it flows out to Manila Bay. The river is connected to tributaries ranging from major rivers such as the Marikina River to small canals or "*esteros*." According to the Pasig River Coordinating and Monitoring Office, there are 3 major and 47 minor tributaries. The most notable ones are the Marikina River, San Juan River, and Pateros River. Due to the vast reach of the river, it has been considered a central feature of life in Manila and its surrounding areas. Some experts regard it as the "nation's lifeline (The Philippine Star, 2019)."

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Despite its importance and cultural history, the river has suffered decades of neglect, resulting in its biological demise. A 2021 study found that the river is one of the most polluting rivers in the world for plastic waste (Meijer et al., 2021). Another study found high levels of microplastics inside the fish along the river (Espiritu et al., 2023), posing health risks to those who consume it and livelihood risks to those who rely on the river as their source of income. In light of this, there is an increased importance in understanding the river and the policies that surround it.

This paper aims to supplement research on the Pasig River by providing a comprehensive historical analysis of the environmental policies concerning the river. It will document the evolution of these policies from the late 1980s up until the current year of 2024. The paper will collate various data sources such as archived microfilm articles, online news articles, and Executive Orders, among others and present a timeline of key events and policies by each administration. Additionally, insights on the collected data will be shared to guide future researchers further. By doing so, the paper aims to provide a solid foundation for subsequent research on the Pasig River and hopefully aid in its rehabilitation.

## **Methodology**

News articles, journals, books, and archived microfilm articles were used for this data collection. Interviews were also utilized to fill any gaps in the initial collected data. Keywords included, but are not limited to: “Pasig River”, “Pasig River Rehabilitation”, “River Rehabilitation”, and “Pasig River Rehabilitation Commission.” Data collection was done in person via the library in Ateneo de Manila University to fill the documentary research between the 1990s to 2010s. Historical background on the river was collected in the Filipiniana section, which in English, is the historical Filipino section. The study utilized older books to get a better understanding of the river prior to the 21st century. The university also has a microfilm section wherein all news articles until the 1990s were archived into microfilm rolls. The exact keywords mentioned above were used to extract any relevant news articles to provide further context and information on the river. The study utilized around 150 microfilm articles found between the years 1992 and 2013.

In addition to this, around 100 news articles were collected from reputable online newspapers between 2010 to 2024. For government policies, the research investigated official Executive Orders, Presidential Decrees, Senate investigations, and other forms of official government proceedings. Lastly, interviews were conducted to understand any details not discussed in the articles. These interviews were with entities who had a strong influence on the river’s development. All the documents were then strategically analyzed to extract the key events and craft a timeline of environmental policy surrounding the Pasig River.

## **Literature Review**

### **Historical Background**

A look into the historical background of the river is needed to gain a deeper understanding of all aspects of the river. Early works stated that human settlements along the banks of the river began as early as the 4th century. By the 12th and 13th centuries, traders from China, India, Java, Sumatra, and Japan could barter goods in the area (Lawagan, 1994). The river served as a means of transportation and livelihood, especially for the local fishermen. As the Spanish colonizers arrived in the 16th century, they further boosted the river's prominence by making it a key route in the Manila-Acapulco galleon trade (Belen, 1997). The formation of this significant port further established the country's presence in the global market. To date, the Port of Manila is still regarded as one of the largest and most active ports in the country.

Despite its importance and cultural history, the river has suffered decades of neglect, resulting in its biological demise. By the late 20th century, the river's waters were heavily contaminated. It is recorded that until the 1950s, people could still fish, swim, and wash their clothes in the river (Anonuevo, 1996). During this time, the river served as a source of livelihood for the local fisherfolk. People would even fish with their bare hands due to their abundance (Tacio, 1998). In the 1960s, these activities slowly declined due to the oil in the water. Shortly after, the fish disappeared entirely in the 1970s. It is said that the pollution level depends on the season. During dry seasons, the water tends to be filled with sewage (Hilario, 1998), while other sources mention how "the shallow currents expose black decomposing waste which releases odorous gasses including hydrogen sulfide (Tacio, 1998)." In addition to this, water hyacinths spread all across the river and its biochemical oxygen demand levels (BOD) reached hazardous levels. All of these have led the Philippine government to consider this as a national agenda starting in the 1980s. The following section will go through each presidential term from 1986 to 2024 and highlight their respective environmental policies concerning the river.

### **Policy Evolution**

During President Cory Aquino's administration (1986-1992), the first steps toward the Pasig River's rehabilitation were taken. A feasibility study was initiated alongside the Danish International Development Agency (DANIDA), which highlighted the severe pollution related issues found in the Pasig River (Estopace, 1999). Significant issues include high pollution levels due to domestic and industrial waste (Manila Bulletin, 1999). The study determined that long-term investment and commitment were necessary to solve the issue with an estimated 15 billion pesos over 15 years of rehabilitation.

President Fidel Ramos' administration (1992-1998) took action on the study and established the Presidential Task Force and the Pasig River Rehabilitation Program (PRRP) (Belen, 1997). The PRRP coordinated efforts among government agencies and organizations and spearheaded the initial 15-year agenda. They focused on industrial pollution, solid waste

management, and squatter relocation. The Pasig River Rehabilitation Program had three main goals, namely to reach a point wherein the water along the river is:

1. Habitable for aquatic life;
2. Suitable for contact sports such as boating; and,
3. Suitable for industrial use after treatment.

In addition, the first lady, Ming Ramos, was an environmentalist who founded the *Sagip Pasig Movement*, a Non-Government Organization that aimed to save the Pasig River by mobilizing the average Filipino citizen. *Sagip Pasig Movement* organized events such as *Piso Para sa Pasig* (One peso for Pasig) which conveyed the First Lady's belief that rehabilitation does not solely rely on government effort but should also be considered a local and community concern. Most importantly, the First Lady mentioned the importance of a fully integrated approach to cleaning the river, wherein the underlying issues are also addressed in the process (Bladbiorg, 1996).

The term of President Joseph Estrada (1998-2001) saw immense support for the efforts through the formation of the Pasig River Rehabilitation Commission (PRRC) through Executive Order No. 54. The order highlighted the state's mandate to "protect and promote the right of the people to have a balanced ecology and sustainable economy in accord with the rhythm and harmony of nature" emphasizing their commitment to the environment and the people's relationship with the environment (CREATING THE PASIG RIVER REHABILITATION COMMISSION, 1999). It aimed to form a single body from three agencies, namely: *the President Marcos' Pasig River Development Council*, *the President Ramos' Presidential Task Force on Pasig River Rehabilitation*, and *the River Rehabilitation Secretariat* (Esplanada, 2000). Their mission was to "transform the Pasig River into the country's showcase of a new quality of life through meaningful urban planning, environmental protection, and efficient river transportation (De Vera, 1999)." The PRRC had a mandate that involved cleaning the river as well as relocating informal settlers to clear easements for further development. The project received a favorable response as ADB provided a 176 million dollar loan to assist in the relocation and development of the river banks (Manila Bulletin, 2000). However, in 2001, the rehabilitation efforts took a back seat due to a focus on terrorism and national corruption (San Juan, 2001).

The river rehabilitation agenda had continued support during President Gloria Macapagal Arroyo's term (2001-2010), as was seen through Executive Order 717, which declared dredging and rehabilitation work as a presidential priority project (Kabling, 2008). The administration also ventured into joint efforts with private organizations, namely the ABS-CBN Foundation, run by media conglomerate ABS-CBN. The partnership made the rehabilitation efforts utilize a more media-focused strategy to push the river's rehabilitation into the national agenda through mass media (Adraneda, 2009). Despite progress in dredging and public involvement, challenges with informal settlements persisted.

Under President Benigno Aquino III's administration (2010-2016), there were no significant changes regarding environmental policy. The PRRC continued its media-focused strategies and community engagement efforts, which were especially seen in the fundraising fun run held in support of the river. Over 100,000 people attended said fundraising fun run (Cayanan & Carcamo, 2010). "River Warriors" were introduced as volunteers to help protect the river, especially in the smaller tributaries (Tanggol, 2010). During this time, the committee recognized the importance of including the public in the rehabilitation efforts. Additionally, President Aquino III showed his continued support through providing the rehabilitation efforts around 10 billion per year (BusinessWorld, 2013). Despite all these efforts, challenges with informal settlements and pollution along the tributaries remained a recurring theme among all past presidencies.

A significant shift occurred during President Rodrigo Duterte's term (2016-2022) as he did not overtly support the former environmental policy. Nonetheless, the PRRC was awarded the first Asia River Prize Award on October 16, 2018, handed by the International River Foundation (IRF) in recognition of their successful efforts (Rivas, 2018) a year before their dissolution. The commission then saw this as an opportunity to bid for a larger budget and a new 15-year master plan to rehabilitate the river (Rita, 2018).

Despite the newly found accolades, President Duterte dissolved the PRRC in 2019 through Executive Order Number 93 (DISESTABLISHMENT OF THE PASIG RIVER REHABILITATION COMMISSION, 2019), which stated that the reason was to "consolidate ongoing rehabilitation efforts in all river systems and tributaries within the Manila Bay Region and streamline rehabilitation functions by transferring them to agencies with relevant core mandates." The Pasig River Coordinating and Management Office (PRCMO) was created as a result of the Executive Order and their mandate was limited to just cleaning and monitoring the Pasig River and its tributaries. The disestablishment of the PRRC to the creation of the PRCMO was a questionable move, given how the primary issue pointed out by previous administrations was the relocation of informal settlers, which was removed from the mandate of the PRCMO.

The shift of the environmental policy came due to the administration's focus on infrastructure due to Duterte's major campaign "Build, Build, Build." The Pasig River Expressway was one of the projects slated under the campaign. San Miguel Corporation (SMC), one of the country's largest conglomerates, expressed interest in 2020 (Cordero, 2020) and their bid for the project was approved in 2021 (Cordero, 2021). The most significant part was that the project was approved despite its lack of formal impact assessment (Cabico, 2021) which caused public unrest (Pedrajas, 2021). SMC pledged to revive the river as part of the development of PAREX (Hallare, 2020). However, this was not accepted by the public due to the risk to the river (Rappler, 2021). Despite the backlash, the project was still projected to push through during the Duterte administration.

Amidst the public outcry, the administration of President Ferdinand Marcos, Jr. (2022-2026) brought back the focus on the river as Marcos Jr. formed an inter-agency council for the Pasig River rehabilitation with the goal of "facilitating the full rehabilitation of the banks along the Pasig River water system... in order to provide alternative transportation, propel economic

opportunities, and boost tourism activities (Philstar.com, 2023).” In January 2024, President Marcos revealed the new master plan to rehabilitate the river. Notably, the new plan extends beyond merely beautifying the river; it also addresses major issues identified by past administrations, such as the relocation of informal settlers (Mangaluz, 2024). It was also emphasized that the new plan will be people-centered and community-driven (Bajo, 2024), two factors that proved successful in the previous years. Lastly, the Pasig River Expressway project was also called off due to public sentiments (Rivas, 2024).

## **Findings**

The documentary research above showed the commitment of the administrations between 1986 and 2016 towards the river’s environmental policy. Though each had its challenges and shortfalls, the agenda of the river’s rehabilitation remained a priority throughout their terms. During President Duterte’s term, there was a departure from these rehabilitation efforts as infrastructure was prioritized over environmental rehabilitation. This shift had profound implications, resulting in the stagnation of rehabilitation progress. This redirection not only diverted attention and resources away from environmental restoration but also undermined the progress achieved by previous administrations.

The shift, as mentioned earlier, also highlights how environmental agencies and policies are vulnerable to changes in political power, as seen in how the Pasig River Rehabilitation Commission was dissolved in 2019 despite the commission being created to protect Filipino citizen’s right to a balanced ecology. Organizations, Commissions, and Agencies that benefit the public are still at risk of dissolution if the succeeding administration does not align with the goals. Environmental policies become more vulnerable due to the long-term nature of the interventions, wherein results may not be seen in a single six-year term. That said, environmental efforts require a different approach to policy and governance. It requires strong political will that is not limited to one term but extends through future administrations. There is a need to discover methods that protect environmental policy from the vulnerabilities of shifts in political powers to allow for sustained efforts that will hopefully yield results.

The study also revealed that the public still holds significant influence over the decision-making processes of those in power. Public clamor, political activism, and international pressure can influence leaders to maintain focus on environmental issues, as seen in the Pasig River rehabilitation efforts when the Pasig River Expressway was halted due to public backlash. Raising the political risk of ignoring environmental issues can be an effective strategy, compelling leaders to act out of fear of losing political stability.

## **Conclusion**

The paper provided a comprehensive historical analysis of the environmental policies surrounding the Pasig River. It highlighted the major initiatives, challenges, and political shifts from the 1980s to 2024. The rehabilitation made the most progress when it had strong support from both the government and the public. Despite this, major challenges, such as informal settlers, industrial waste, and domestic waste, were still persistent throughout. The

environmental policy took a significant shift during President Duterte's administration due to an attempt to redirect the focus of the river from rehabilitation to infrastructure. This change led to public backlash and the project being halted, highlighting the importance of public clamor in decision-making.

Furthermore, the dissolution of the Pasig River Rehabilitation Commission in 2019 exemplified the vulnerability of environmental policies to shifts in political priorities. Given how environmental solutions require a more long-term approach, there is a need for more consistent and dedicated approaches to environmental policy to ensure sustainable restoration in the Pasig River ecosystem. Ensuring effective environmental governance demands continuity beyond electoral cycles and increased public engagement. Achieving both continuity and increased public engagement could make it possible to realize the river's environmental goals.

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# Everyday Forms of Resistance in Post-coup Myanmar

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## Abstract

After staging a coup on February 1, 2021, the Myanmar military was confronted with an unprecedented nationwide resistance to its rule. From the noncooperative CDM movement and street protests to armed uprisings, the people of Myanmar express their contempt for the military's seizure of power. When the global media attention is focused on Myanmar, the limelight is usually on protestors shot dead by junta forces or on rebel groups ambushing a junta convoy in the jungle. Rarely is the centerstage given to everyday activities of the people of Myanmar since, according to general perception, they can be pretty mundane and devoid of political meanings. However, Scott and Kerkvliet warned against this view, explaining that everyday practices can be political if turned against a ruling regime or agents of that regime. In the face of a repressive and hegemonic force, defiance is only possible through practicing everyday forms of resistance. While Myanmar rebel forces' unrelenting campaigns against the military junta have received much attention, both popularly and academically, everyday forms of resistance employed by Myanmar people in their daily lives are not given much scrutiny yet. I want to fill this gap by documenting two main types of everyday forms of resistance in post-coup Myanmar: changing consumer practices and overturning traditional and religious norms and values. This paper aims to contribute to the literature on Myanmar politics in general and post-coup Myanmar in particular.

**Keywords:** Myanmar, coup, Junta

## Introduction

On February 1, 2021, Myanmar's military staged a coup and arrested Myanmar's elected civilian leaders, including President Win Myint, State Counsellor Aung San Suu Kyi, and other law makers. Just a few days later, people all around the country organized peaceful demonstrations and protests against the takeover of power by the military. Simultaneously, a Gandhian form of noncooperative resistance also emerged, popularly known as the Civil Disobedience Movement (CDM); at its core, the CDM movement's primary function was to disable the military junta's governing mechanism by denying its most crucial resource: the manpower. Thousands of students, civil servants, workers, doctors, and teachers participated in the movement, and social media, especially Facebook, was flooded with images of railway workers lying on railway lines to hamper the functioning of the railway system and people providing workers who resigned from their jobs

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with food, money and other amenities. After a few weeks, the military stepped up their crack-down methods by starting to shoot protestors in the head with live bullets and arresting CDM participants. The resisters responded by equally employing violent means to counter the military's move, resulting in the birth of an armed resistance movement that whose confrontation with the military rages on to this day. However, the protests, the CDM movement and the armed resistance were only three of many strategies taken from the existing repertoire of old and new resistance methods. After the end of April 2021, mass protests and demonstrations had virtually disappeared from the streets of major cities due to violent crackdown by the military and the CDM participants had to hide in safe houses or flee to "liberated" areas because of the junta agents' relentless chase and only a handful of young people can withstand the harsh climate and living condition of the border areas and go through the essential military training, under the tutelage of Ethnic Armed Forces (EAOs). People who possess financial means fled to third countries, where better opportunities await them. Most people, however, had no choice but to remain in junta-controlled urban centers and other areas. In these places, due to violent means employed by the junta to suppress resistance to its rule, it is hopeless for the people to revolt outrightly. In this situation, they employed "everyday forms of resistance" to make the function of the junta's governing mechanism as fraught with difficulties as possible and deny the military junta precious financial and human resources.

### **Theoretical Framework and Motivation**

The desire to do research on 'everyday forms of resistance' utilized by the people of Myanmar stemmed from the author's interaction with literature on covert forms of resistance. Scott (1985, p. 29) defined "everyday forms of resistance" as "the ordinary weapons of relatively powerless groups" which include "foot dragging, dissimulation, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so forth." In a similar vein, Kerkvliet (2009, p. 233) refers to resistance as "what people do that shows disgust, anger, indignation or opposition to what they regard as unjust, unfair, illegal claims on them by people in higher, more powerful class and status position or institutions." Kerkvliet also argues that this kind of resistance is often "entwined with individuals and small groups' activities while making a living, raising their families, wrestling with superiors and subordinates" (2009, p. 232). Eidse et al. (2016) had also documented how itinerant vendors in Hanoi employed "everyday forms of resistance" to avoid the agents of the state while at the same time trying to survive in the Vietnamese capital.

Another factor that prompted the author to do this research is the understudied nature of covert struggle typical in everyday life for the people of Myanmar. Immediately after the coup, the international media scene was filled with the image of Myanmar people who came out into the streets to protest against the government they despised. Some months later, when protests in urban centers died down due to severe repression, media around the globe yet again reported on young people in khaki uniforms receiving harsh military drills in border areas. What is lacking in this reporting is how the people of Myanmar resist the military junta through mundane practices in their everyday lives, and the author wishes to fill this gap.

## **Methodology**

This study collects data from social media and websites of both local and international media. Primarily, the author collected posts from Facebook, synonymous with the Internet in Myanmar (Huang, 2020), posted by both pro and anti-junta accounts and pages. Additionally, reporting of the events in Myanmar by both local and international media are also analyzed. They include articles in both Burmese and English languages. The author was personally active during the early days of the anti-coup movement and participated in various demonstrations and protests, especially ones organized by students' unions. When they were made impossible due to severe repression, the author follows all the significant events in Myanmar. This firsthand experience of personally living through the coup has provided the author with crucial information for this paper. Moreover, I've also consulted academic articles and manuscripts for additional information. To conclude, this paper is based on the data collected online and the personal experience of the author, supplemented with information taken from academic literature.

## **Everyday Life and Resistance**

People from Myanmar's urban centers deployed "everyday forms of resistance" to rebel against the powerful military junta covertly. In this process of resistance, as I will describe in detail in the coming pages, people not only disrupt the junta's capacity to govern the country through the utilization of everyday practices as weapons of resistance but also make the business of governing the country demanding for the junta and relates in details what those "everyday forms of resistance" are, what is the philosophy behind each of them and how the employment of them affects Myanmar's political situation. In doing so, I will argue against two propositions put forward by Scott and Kerkvliet: that everyday forms of resistance are "concerned largely with immediate de facto gains" (Scott, 1985, p. 33) and that they are "done by people who probably do not regard their actions as political (Kerkvliet 2009, p. 232). I will instead display evidence against these stipulations and argue that everyday forms of resistance can be utilized to achieve a more permanent change and that people consciously make use of everyday forms of resistance, knowing that their actions will have political repercussions.

## **2021 Coup and Everyday Forms of Resistance during the early days**

A few days after the military seized power on the morning of February 1, 2021, people crowded the streets all around Myanmar, and marched in unison to display their dissatisfaction with the military's takeover of state authority. In these protests, protestors, especially youth, combined conventional forms of resistance, such as marching and chanting slogans with placards and banners upraised, with more modern ones borrowed from anti-authoritarian movements from all over the world, such as the raising of three-fingered salute, first appeared in The Hunger Games film series and adapted to be a symbol against authoritarianism by protestors from Thailand and Hong Kong (Egreteau 2023). When the military started to employ violent methods to crack down on the protests against its rules, the protestors responded by wielding shields, building barricades and wearing goggles and protective helmets to defend themselves against tear gas canisters and

bullets (Nachemson, 2021). When protests in urban areas became unfeasible, youth fled to border areas to receive weaponry and military training from long-established EAOs there (Than Lwin Aye, 2022).

With these direct resistances emerged other forms of indirect revolt; the most well-known among them was the CDM movement. Technically, unlike the direct resistance, which directly confronted the security forces, first in peaceful then in violent manners, the CDM movement aims to disable the military junta by denying it human resources and cutting off the junta from its revenue sources. That is why the movement's participants are mostly those who work as civil servants in various government departments - including teachers, civil servants, doctors, and students enrolled in government-funded institutions - since, with their mass resignation, the junta cannot run the country. There were also CDM participants from private companies, such as MyTel, a telecommunication company with a solid link to the military. Like peasants, who display their discontent with the landlord or the state by deliberately slowing down their work or by laboring sluggishly, which Scott identified and defined as "everyday forms of resistance", the CDM participants express their frustration with the military's derailment of the ongoing democratization process by leaving their workplace altogether. The primary aim of the CDM movement is to force the military regime to capitulate to the popular demand to give up on its grip on power. In other words, it aims to achieve a more permanent, long-term political change through everyday forms of resistance. Writing about the intertwined nature of politics and everyday life in Hong Kong during and after the 2019 Anti-Extradition Bill protests, Tang and Cheng (2022, pp. 132-133) documented how actions in everyday life, such as changing consumer practices, can be mobilized to demand long-lasting political transformations, "such as regime change – from a semi-democratic regime to a fully democratic one – and equal political rights in electing chief executive and the legislature." Unlike Scott's observation of the everyday forms of resistance, which he describes as seeking only de-facto, short-term changes, the above examples demonstrated the potent ways "everyday forms of resistance" can be employed to achieve long-term transformations.

Another indirect resistance tactic was employed during the early days of the anti-coup protest. In February 2021, taxi drivers stopped their cars in long queues along or across major thoroughfares, pretending that their cars had broken down and were merely awaiting assistance, which technically blocked the roads (The Korean Times, 2021). Similarly, groups of people simultaneously dropped and picked up onions and potatoes at major crossroads, blocking the movement of traffic (Kyaw Zwa Moe, 2021). These acts aimed to hamper the movement of military vehicles and troops on their way to disperse the protests. They could be classified as everyday forms of resistance since they didn't confront the security forces directly, and those who participated in these movements didn't harass the agents of the state but simply explained that they were in the middle of the road because their cars had stopped functioning or they dropped their stuff and have to pick them up. As this author described above, protestors during the 2021 anti-coup protest merged long-established types of resistance with novel ones, giving birth to various tactics deployed against the junta. In 1936, the dean of University College, which was one of the

two constituent colleges of Rangoon University, expelled two students from the university due to their involvement in publishing satirical literature. In response, students held demonstrations against the decision. At that time, Myanmar was under British rule and the protest quickly escalated, becoming an anticolonial movement with multiple anti-British organizations came to be involved (Aung Tun, 2012). One of the centerpieces of this protest was deterring students and faculty members at Rangoon University, an institution run by the British government, from studying and teaching. To achieve this, protestors at Rangoon University lay down at the entrance of classrooms to deter teachers and other students from entering the classrooms (Ikeya, 2011). Those who came up with the abovementioned idea of deterring security forces from reaching protest areas might receive their inspiration from their colonial era predecessors.

In a similar vein, Myanmar consumers attempted to achieve a change in the status quo by boycotting products and services that would provide the military with necessary revenue for their campaign against the people. At the center of the boycott campaign were the products of Myanmar Brewery Limited, especially Myanmar beer, a famous beer brand consumed by many people in Myanmar, and telecom services provided by MyTel, one of the four telecommunication conglomerates in Myanmar, both of which have a strong connection to the military (Sann Oo, 2018). The sale of Myanmar beer decreased after the 2021 coup (The New Arab, 2022), and pub owners and grocery store staff started replacing Myanmar beer with other alternative products. This led to the junta forcing pub and grocery store owners to resell Myanmar beer cans and bottles or at least showcase them on shelves (RFA Burmese, 2023). Among Myanmar's telecommunication giants, Mytel is a latecomer to the game. It started its operation in 2018, and its connection to the military is evidenced by the appearance of Myanmar military's Commander-in-Chief Senior-General Min Aung Hlaing at its opening ceremony on 13 February (Sann Oo, 2018). After the 2021 coup, people in Myanmar started to stop using MyTel sim cards and broadband services and opt for telecom services provided by foreign companies such as Telenor and Ooredoo. However, Telenor left Myanmar in 2022, and its operation was taken over by a joint venture between a local company and a Lebanese group (Asia Financial, 2022).

## **Conclusion**

After Myanmar's military staged a coup on February 1, 2021, a nationwide resistance movement erupted throughout the country. The resistance movement came in many forms: from mass resignation generated by the CDM movement to armed resistance currently raging around the country; the people of Myanmar have displayed their unparalleled resilience through quickly adapting to the situation and transitioning from one movement to the other. When the military started to crack down on protestors with violent methods, the protestors swiftly changed their tactics, deploying makeshift shields and gas masks to protect themselves from junta forces' arsenals. When staging street protests became too dangerous and impractical, they fled to border areas to take up arms against the junta. In this situation, those who remained in junta-controlled

areas chose “everyday forms of resistance” as the only option they possessed to continue their resistance against the military rule. These “everyday forms of resistance” include changing consumer practices, abstaining from going to cinemas and festivals, and resigning en masse from junta-controlled government departments. These everyday acts do not receive as much attention as armed conflict, and this paper can hopefully shed light on their importance in the ongoing struggle against military rule in Myanmar.

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# EXPLORING YOUNG WOMEN’S EXPERIENCES OF ONLINE HARASSMENT IN MYANMAR

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## **Abstract**

Over the past years, the increased internet connectivity in Myanmar has immensely transformed how people live, work, and interact, bringing various benefits to society. However, online harassment remains a severe and pervasive problem in the digital age. A few existing literature and reports related to the context of Myanmar show that young people, especially young women, are affected by online harassment. There is still a lack of literature examining online harassment against young women through the gender lens in Myanmar. This paper aims to explore the online harassment experiences of nine young women from a university in Myanmar and how these negative online experiences have adverse impacts on their emotional well-being and online participation. Findings from semi-structured interviews reveal that young women encountered online harassment in a more gendered way, resulting in severe emotional distress and feeling scared, helpless and frustrated, leading to decreased online participation and self-censorship in digital spaces. Interpreting the data through the feminist lens shows that societal norms and systemic sexism contribute to the prevalence of online harassment against young women. This paper contributes to the existing literature on gender and technology by offering valuable insights. It highlights the urgent need to address and reduce online harassment to promote a safe and inclusive digital environment.

**Keywords:** online harassment, gender, emotional well-being, online participation, Myanmar

## **Introduction**

The rapid growth of internet connectivity has transformed how people live, work and interact worldwide. The Internet and digital technologies enable individuals from all backgrounds to access and exchange information and improve communication and social interaction. Information and communication technologies (ICTs) can improve social justice by encouraging collective action or giving better access to information and services for individuals. In recent years, Myanmar has experienced a digital leapfrog and internet connectivity due to

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economic liberalization and political transition between 2011 and 2020 (Ryan & Tran, 2024). Due to this digital advancement, more people in Myanmar have gained internet access. Online platforms like social media have become spaces for Myanmar people, especially the youths, to access information and services, better online learning opportunities and civic expression (Ridout et al., 2020). However, alongside these benefits, a pervasive issue has emerged in the digital environment: online harassment.

Online harassment is a severe issue in the digital age, encompassing a wide range of abusive forms including, but not limited to, cyberbullying, doxxing, trolling, online sexual harassment and online impersonation. Although both men and women can encounter online harassment, various studies show that women are disproportionately targeted by serious forms such as severe sexual harassment online and cyberstalking. (Lenhart et al., 2016; Pew Research Center, 2021; UN Broadband Commission, 2015). Online harassment is a growing concern in Myanmar as well. There were a few local media reports of women in Myanmar who were targeted for online harassment in which they have been subjected to cyberstalking, intimidation and extortion through doctored images or revenge pornography (Aung, 2016). Khine et al. (2020) surveyed to investigate the prevalence of cyberbullying among university students in Magway Region, Myanmar. The results demonstrate that both male and female students suffer from cyberbullying, with a slightly increased percentage of female students, and young women are more likely to be harassed by electronic methods for being a woman and being older than 21 (Khine et al., 2020). A recent report conducted by Myanmar Witness and Sisters2Sisters organization shows that politically motivated harassment targeting women and girls is appearing in the digital world after the February 1 Coup in Myanmar (Myanmar Witness, 2023).

However, there is still a literature gap in examining the prevalence of online harassment cases in the context of Myanmar and how it has negative impacts on individuals, especially young women. The most common social media users in Myanmar are young people aged 13 to 35 (Graafland, 2018), a population group that can have potentially adverse effects in digital spaces. University students are particularly vulnerable to online harassment and risks because they rely on the Internet and use social media for education, accessing information, and gaining knowledge. There are a few existing studies that focus on the prevalence of cyberbullying among university students (Khine et al., 2020) and the effects of social media use on young people in conflict-affected areas in Myanmar (Ridout et al., 2019). The results of these studies demonstrate detrimental effects on the country's youth, especially young women.

There are a few media articles that describe instances of some Myanmar women being harassed online (Aung, 2016). Some reports primarily focusing on the digital gender gap in ICT access and mobile usage (GSMA & LIRNEasia, 2016) show that online safety for women is a significant challenge because of the widespread belief in society that women, especially young women, are weaker than men (IREX, 2017), portraying the patriarchal cultural society in Myanmar. These findings, however, do not go into great detail on the online harassment that Myanmar women face. Therefore, it is evident that online harassment experienced by young

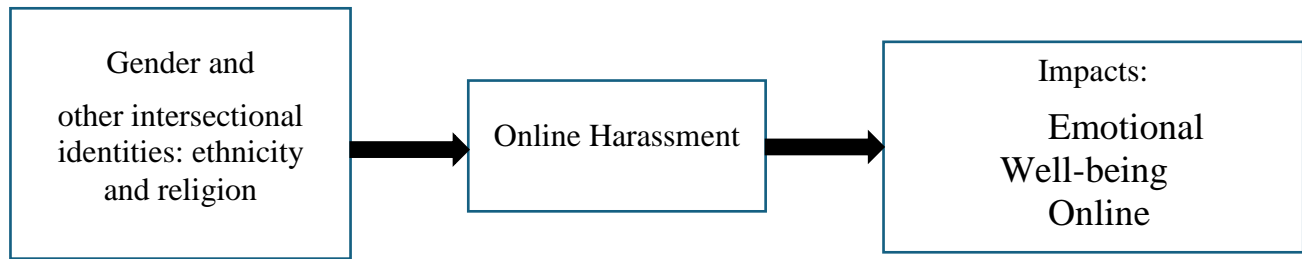
women is primarily disregarded. There is a significant literature gap regarding how young women specifically experience online harassment and how it negatively affects their emotional well-being and online participation, all of which contribute to the growing digital gender gap.

Hence, the primary objective of this research study is to explore the online harassment experiences of young women in Myanmar who are university students at one private university when they navigate online and how it impacts young women's emotional well-being and online participation. It also seeks to contribute to the existing body of literature on online harassment in the context of Myanmar by providing a qualitative lens. The study highlights the importance of creating a safer and more inclusive digital environment for everyone by offering a comprehensive point of view. Based on the objective of the study, the paper aims to address the following research questions:

- 1) What forms of online harassment have young women experienced?
- 2) How has online harassment impacted emotional well-being and online participation of young women?

### **Conceptual Framework**

This study employs feminist theories to critically analyze the gendered dimensions of online harassment to see how power dynamics and systemic oppression, coupled with cultural and gender norms in society, manifest in the digital environment. Since the Fourth Industrial Revolution, several scholars have used feminist approaches to critically examine the relationship between gender and digital technology. Feminist theory has long emphasized the relations of differences and hierarchy within gender groups in society and different types of power and inequality (Kerner, 2017). Feminist theory examines and analyzes the experiences of women in a patriarchal society. It highlights women's inequalities within a larger structural framework that fosters misogyny and suggests various strategies to achieve social change (Bladini, 2020; Ging & Siapera, 2018). Therefore, by examining online harassment through a feminist lens, online harassment reflects the systemic discrimination and gendered power relations in society, which disproportionately affect young women and impact their emotional well-being and online participation. By drawing from Crenshaw (1989), the intersectional approach emphasizes how intersecting identities such as gender, race or ethnicity, or religion shape individual experiences. The study seeks to recognize the diverse experiences of women from diverse ethnic and religious backgrounds through intersectionality.



Through feminist theory and intersectionality, gender is a crucial concept to consider when examining the nature and the impacts of online harassment. Gender acts as a conceptual lens to study interconnected power imbalances, providing an understanding of how these disparities are created and sustained in both offline and online contexts. Various research studies indicate that women are more likely than men to encounter gendered harassment online (Henry & Powell, 2018; Veletsianos & Kimmons, 2016). Myanmar is a country with diverse ethnic groups and religions. An intersectional approach helps to understand how gender intersects with ethnicity and religion by recognizing the unique experiences of women from various ethnic and religious backgrounds.

Various definitions of online harassment exist in the literature (Daqiq & Akramy, 2023; Kim, 2009; Winkelman et al., 2015). In this paper, online harassment is defined as unwanted behavior that is used through information and communication technologies by an individual or group to cause harm to another person based on their gender identity or to enforce harmful gender norms. Women experience various unwanted forms of online harassment, such as cyberbullying, doxxing, online sexual harassment, trolling and online impersonation. Feminist scholars view online harassment as a subset of the many forms of harassment that women encounter, all of which are connected to a misogynistic ideology that sees women as inferior. (Jane, 2014, 2016; Mantilla, 2015).

Online harassment negatively impacts the emotional well-being of individuals by causing severe emotional distress, stress, anxiety, and low self-esteem (Patchin & Hinduja, 2006; Pew Research Center, 2017). This adverse impact on emotional well-being extends to women feeling unsafe and threatened in terms of their physical safety (Amnesty International, 2018). It also adversely impacts women's online participation, resulting in withdrawal from social media or digital platforms, self-censorship or stopping social media engagement altogether (Citron, 2014). It hinders women's participation in online discussions and freedom of expression online due to fear of harassment, contributing to the digital gender gap.

## **Methodology**

This study employed a qualitative method to examine the nature and the impacts of online harassment on the emotional well-being and online participation of young women and to deeply understand how young women in Myanmar have encountered online harassment when they use social media. Primary data was collected through semi-structured, in-depth interviews with nine young female undergraduate and graduate students from one private university in Myanmar, aged from 20 to 27 years, who have experienced online harassment. The participants are from diverse ethnic and religious backgrounds to capture the intersecting identities. The interviews were conducted through secure online platforms such as Zoom and Signal since face-to-face interviews are not feasible due to the current political instability in Myanmar. Although the sample size is small, which can limit the generalizability of the findings to a broader population, the findings are saturated and produce valuable insights from young women who shared their personal experiences on online harassment and how it impacted them. The data was analyzed through thematic analysis, a helpful tool to systematically identify recurring patterns or themes from the qualitative data. Predefined themes from the interview data were based on existing literature and research questions.

Ensuring ethical considerations were adhered to in this study. Participants were fully informed about the research's purpose, objectives and ethical considerations before agreeing to participate. During the introductory phase of the interviews, the researcher built trust and obtained informed consent from all participants before beginning the interview process. All personal information of the participants was kept confidential, and pseudonyms were used throughout data collection, data analysis, and writing procedures to protect their identities. Participants were informed of their right to withdraw from the study at any point without giving any reason and that their participation was highlighted as voluntary. Since the study involves negative online experiences of the participants, which can bring up unpleasant memories, the researcher consistently used prompts like "Would you like to" when asking participants about their experiences. This approach made sure that participants felt they had the option to say no if they were uncomfortable. Participants were treated with respect during interviews and throughout data collection and analysis.

| No . | Date of interview | Participant's Pseudonym | Gender | Age | Education     | Ethnicity   | Religion                  | Type of interview |
|------|-------------------|-------------------------|--------|-----|---------------|-------------|---------------------------|-------------------|
| 1.   | 26/04/2024        | Lily                    | Female | 21  | Undergraduate | Karen       | Christianity              | Zoom              |
| 2.   | 30/04/2024        | Esther                  | Female | 22  | Undergraduate | Mon         | Christianity              | Zoom              |
| 3.   | 01/05/2024        | Ellie                   | Female | 22  | Undergraduate | Bamar       | Buddhism                  | Zoom              |
| 4.   | 03/05/2024        | Velvet                  | Female | 21  | Undergraduate | Karen       | Christianity              | Zoom              |
| 5.   | 05/05/2024        | Htet                    | Female | 27  | Graduate      | Bamar       | Buddhism and Christianity | Zoom              |
| 6.   | 05/05/2024        | Su                      | Female | 27  | Graduate      | Shan-Bamar  | Buddhism                  | Signal            |
| 7.   | 07/05/2024        | Thu                     | Female | 20  | Undergraduate | Karen-Bamar | Christianity              | Zoom              |
| 8.   | 14/05/2024        | Mya                     | Female | 23  | Graduate      | Karen       | Christianity              | Zoom              |
| 9.   | 22/05/2024        | Thwe                    | Female | 22  | Undergraduate | Mon         | Islam                     | Zoom              |

Figure 2: List of participants

### **Findings**

The study reveals that despite the benefits of the Internet and social media, young women are exposed to online harassment in digital spaces, confirming previous literature, reports and news articles.

### ***Forms of online harassment***

All young women in the study experienced various forms of online harassment when they used the Internet and social media, primarily on Facebook and Messenger, with a few incidences occurring on Instagram and Telegram. The forms include online sexual harassment in various forms, such as receiving unsolicited sexually explicit images and messages, receiving requests for sex and receiving threatening messages based on an individual's doctored images without consent, receiving harmful or offensive comments or messages online, and online impersonation.

More than half of the young women in the study experienced online sexual harassment in which they received unsolicited inappropriate or sexually explicit images and messages from male perpetrators whom they did not know. Thwe and Velvet (personal communication, 5 May 2024) mentioned how they were harassed repeatedly online and received sexually explicit images and messages many times from the perpetrators, who were male strangers online. Esther (personal communication, 30 April 2024) reported how she encountered online sexual harassment when she was young, followed by threats from the perpetrator for editing her photo without her consent. Lily (personal communication, 26 April 2024) described an unpleasant experience when a close friend propositioned her for sex through Messenger, which made her feel shocked and question her value as a person in society.

Regarding receiving negative and offensive comments, Htet (personal communication, 5 May 2024) shared her first encounter with online harassment ten years ago when she publicly shared a post related to political content on Facebook and expressed her opinions. The male strangers online disagreed with her view and commented by using offensive and sexualized words, comparing her to a prostitute and using gender-based slurs. This harassment continued even after she deleted the comments. One of the attackers in the comment section continued to send insulting messages to her through Messenger, followed by a few strangers with male profiles sending insulting messages to her by using genital-related curses. This form of online harassment experienced by Htet (personal communication, 5 May 2024) demonstrates that many individuals, especially those with male profiles, whom she assumed to be men, can be persistent in harassing young women who voice out their opinions online, particularly views related to political matters. When Htet (personal communication, 5 May 2024) has different views from these male perpetrators, they attacked her with offensive and sexualized words in the comment section as well as through messages. Htet (personal communication, 5 May 2024) also shared another experience in which she received a racist and body-shaming comment on Instagram criticizing her appearance and race from a stranger online with a female profile who was not from Myanmar. Further, Ellie and Htet (personal communication, 5 May 2024) shared their experiences of being impersonated online, where unknown individuals used their photos on Facebook and Instagram. They did not know why these individuals impersonated them online, and the cases did not escalate to serious ones.

Many young women in this study noted that the factor behind the perpetrators conducting those aggressive behaviors was mainly because of gender, which is for being a woman based on their experiences, especially online sexual harassment cases. Several young women in the study mentioned that the society in Myanmar, especially men, often view women as vulnerable, which makes girls and women easy targets of online harassment. It is related to how the society in Myanmar views women as weak and vulnerable, leading to projecting harmful gender norms towards women. Three young women mentioned that it is also because of the patriarchal society in Myanmar and the perceptions of young women in the society combined with cultural norms and gender norms that contribute to online harassment. Some academics like Aye Nwe (2010) also

claim that the patriarchal cultural concept has been exercised in families, ethnic communities and the society in Myanmar, causing the prevalence of gender hierarchy (Nwe, 2010). Htet (personal communication, 5 May 2024) was sure that aggressive attacks through offensive comments and messages by several male strangers online were based on her political view, which differed from theirs, not because of gender. However, the attacks were more aggravated and sexualized due to gender, simply because she is a woman.

The findings reveal that the patriarchal cultural society, gender hierarchy, systemic sexism and misogyny in Myanmar society are interrelated and contributing to online harassment against young women. Although the study tries to explore the intersectional identities of ethnicity and religion in how young women experienced online harassment, most participants in this study mainly emphasized the role of gender in harassment. Regarding their negative online experiences, most young women did not indicate that their ethnicity or religion were contributing factors to online harassment. Only Htet (personal communication, 5 May 2024) reported an online harassment experience based on racist and body-shaming comments from a foreign person using a female profile. Although she found the comment sensitive and hid it in the comment section, it did not affect her self-esteem. She noted that she has developed a stronger self-awareness and confidence, which is related to her maturity and perception of such comments online. Therefore, the negative comment based on her appearance and race did not significantly impact her emotional well-being and online participation. Other researchers should explore how these intersecting identities negatively impact diverse groups of women in Myanmar.

### ***Impacts on emotional well-being and online participation of young women***

The impact on emotional well-being and online participation of young women due to experiencing online harassment is profound and varied. The findings show that the emotional well-being of young women was negatively impacted, ranging from severe emotional distress to feeling frustrated, helpless and scared. The traumatized experience of online harassment resulted in a prolonged recovery period in which Lily (personal communication, 26 April 2024), who shared her negative online experience following the incident, struggled to feel better. Thwe (personal communication, 22 May 2024) expressed she felt traumatized from past repeated online sexual harassment experiences, and when it occurred again, she felt distressed. Moreover, the majority of young women in the study reported a pervasive sense of fear and insecurity as a result of their adverse online harassment incidences, making them feel unsafe and worried.

The fact that these young women's negative online harassment experiences have a substantial negative impact on their online participation is a concerning aspect. Some participants believe they ought to exercise greater caution when posting anything online, are reluctant to do so in the wake of incidents of online harassment or are afraid of receiving negative comments. This fear creates a certain degree of chilling effect on these young women, making them worried about being criticized or harassed online. The chilling effect of online harassment causes young women to avoid expressing their own opinions, significantly affecting their freedom of expression online.



Htet (personal communication, 5 May 2024) shared how she has come to refrain from expressing her opinions and silence herself after receiving negative and sexualized comments based on her political opinion.

Online harassment has led to a decline in how often young women use social media and engage online. Due to repeated online harassment experiences, Velvet (personal communication, 03 May 2024) has withdrawn from specific social media platforms, especially Facebook, for a certain period and later reduced her engagement and activity online. This behavior demonstrates the tendency to avoid specific platforms out of fear of facing online harassment again, and this has consequently affected her online participation. Feeling unsafe in digital spaces can make young women withdraw from specific social media platforms and not voice their opinions online, which contributes to widening the gap in gender equality.

## **Conclusion**

Online harassment is a critical and persistent problem affecting young women in Myanmar. The study contributes valuable information to the existing body of literature in the context of Myanmar. It provides evidence-based findings on how young women encountered online harassment in various forms and how online harassment has adverse impacts on their emotional well-being and online participation. The study also shows how Myanmar's patriarchal culture, gender norms, and cultural norms may all contribute to online harassment and particularly limit the chances and advantages available to women in digital spaces. The issue of online harassment is vital to examine, mainly because governments and other relevant organizations are pushing for a more digitalized world and development with improved internet access. The findings are crucial for policymakers, social media platforms and non-governmental organizations to develop gender-responsive policies and actions to build a safe digital environment for all individuals, which is very much needed in this digital age.

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# REASSESSING THE SECURITY-DEVELOPMENT NEXUS IN THAILAND 2014-2024: IMPLICATIONS FOR NATIONAL DEVELOPMENT AND INTERNATIONAL RELATIONS

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## Abstract

The security-development nexus, as a concept and policy recommendation promoting the mutual reinforcement of security and development within the framework of liberalism, was proposed for Third World countries post-Cold War to address economic progress needs, improve people's quality of life, and manage complex security issues. This study revisits the nexus as a positive tool, applying it to Thailand's evolving security and development context from 2014 to 2024. This period includes dynamic political shifts marked by two national elections and the three government transitions from a military regime, its subsequent civilian transformation, to an elected government in 2023. Numerous factors, such as power struggles in trade and technology, the pandemic, and the resurgence of conventional warfare, have influenced the external political landscape. The study tests the theory of 'balance' between security and development within Thailand's national-level policies—such as the 20-Year National Strategy with its *Security-Prosperity-Sustainability* goals, the National Economic and Social Development Plan, the National Security Policy and Plan, and the Defense Policy—to assess their implications on the goals. The findings reveal that Thailand's current trajectory exhibits both acceptable and unacceptable imbalances, failing to achieve high levels of either security or development. The analysis indicates that approaching the nexus as a form of hard power can enhance Thailand's national power as an aspiring middle power in an uncertain, multipolar world. Military strength remains vital as a state instrument for bargaining, balancing, or hedging to safeguard national interests beyond mere defense or offense. The study emphasizes that balancing the nexus is crucial, especially since Thailand adheres to a balance of power strategy in international relations. Finally, the study suggests addressing Thailand's unacceptable imbalance by clarifying what constitutes 'military modernity,' as this is essential to leverage military capabilities for national development effectively.

**Keywords:** Security-Development Nexus, National Development, National Power, Middle Power,

Hard Power, Military Modernity, Thailand

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## Introduction

Amidst the efforts to recover from the COVID-19 pandemic, the complex interplay between security and development has been brought back to light in the global landscape since 2022, posed by both military and non-military challenges. Data shows that global military spending in 2022 increased by 3.7 percent (Tian, Silva, et al., 2023), while global economic growth in 2023 is anticipated to decelerate to one of the lowest rates in recent decades (UNDESA, 2023). Governments encounter challenges in determining the most effective allocation of public spending (Tian, Kuimova, et al., 2023).

This situation echoes themes from the statecraft contextualized in the Cold War and early post-Cold War. The ‘security-development nexus’ is broadly conceptualized but often projected onto Third World developing nations in high-security contexts, requiring state-building, development assistance, and humanitarian aid. One approach to the nexus also posits that prioritizing security over development efforts tends to have negative consequences.

This paper contextualizes the concept within Thailand’s unique national conditions, as suggested by de Carvalho and Lima (2023b), Tschirgi et al. (2010), Hettne (2010), and Picciotto (2004). The period from 2014 to 2024, spanning three governments—the latest coup d’état in 2014 and Prime Minister General Prayut Chan-o-Cha’s two administrations (2014-2019, 2019-2023) and the current civilian Prime Minister Srettha Thavisin (2023-present)—is examined to understand the nexus’s implications in changing domestic and global contexts and its significance for national development. This context is relevant given that Thailand, strategically located with both land borders and a coastline, faces external challenges such as transnational crimes. Internally, it grapples with threats like insurgency, risks to national institutions (Thitinan, 2014), and periodic political crises involving the military cycles of coups d’état, which exacerbate instability, hinder foreign policy, and impede national development and the economy (Chambers, 2013; Chulacheeb, 2015; Pongsak & Yuthana, 2018; Surachart, 2023; Thitinan, 2020). The military defense expenditure during the past decade also faces criticism. At the same time, Thailand contends with significant economic inequality while striving to escape the middle-income trap through sustained GDP growth efforts (Glassman, 2020). Thailand in 2024 is particularly at a crossroads, seeking an appropriate economic and development model (Hinojales & NG., 2024).

Additionally, Thailand must navigate its national interests and development trajectory amidst the competition and conflicts among major powers seeking economic and military influence in Southeast Asia (Puangthong, 2022), echoing Cold War dynamics and current complex tensions. Additionally, Thailand has long aspired to project itself as a middle-power country characterized by maintaining good security and prosperity. This ambition involves adopting a middle-ground approach to harmonize interests at the multilateral level and ensure international

stability, mainly through the balance of power (Schweller, 2017). This stance underscores Thailand's commitment to promoting stability in international affairs.

## Methodology

Guided by the conceptual framework, this document analysis assesses the three elements outlined in the theory of the balanced nexus through an examination of national-level policies enacted from 2014 to 2024. The results indicate whether there is a balance or imbalance, which determines positive or negative implications for Thailand's goals of security and prosperity. This analysis assesses the significance of the theory and the nexus and evaluates the country's potential for progress in such circumstances. The primary dataset analyzed includes:

- **The 20-Year National Strategy** (2018–2037) by NESDC (2018, 2019, 2024b)
- **Three editions of the National Economic and Social Development Plans:** The 11th NESDP (2012–2016), the 12th NESDP (2017–2021), and the 13th NESDP (2023–2027) by NESDC (2012, 2017, 2023a),
- **Four editions of the National Security Policy and Plan:** The National Security Plan (2015–2021), and the National Security Policy and Plan (2017–2021, 2019–2022, 2023–2027) by NSC (2015, 2017, 2019, 2023),
- **Ministry of Defense's 5-year institutional action plan** (2022-2027) by MoD (2023c)
- **Policy statements from the three governments:** General Prayut Chan-O-Cha in the first and second terms (2014-2019, 2019-2023), and Srettha Thavisin (2023-present) by Choksuk (2023),
- **Policy statements from the three defense ministers:** The military government's minister, General Prawit Wongsuwan (2014-2019), General Prayut Chan-O-Cha (2019-2022), and the civilian government's minister, Sutin Klungsang (2023-present) by MoD (2018, 2023a, 2023b),
- **The annual progress report summarizing the implementation of the 20-Year National Strategy** for years 2021, 2022, and 2023 by NESDC (2022, 2023b, 2024a),
- **The three international indexes:** The Global Peace Index (GPI) by the Institute for Economics and Peace (IEP), the Legatum Prosperity Index (LPI) by the Legatum Institute, and the Global Militarization Index (GMI) by the Bonn International Centre for Conflict Studies

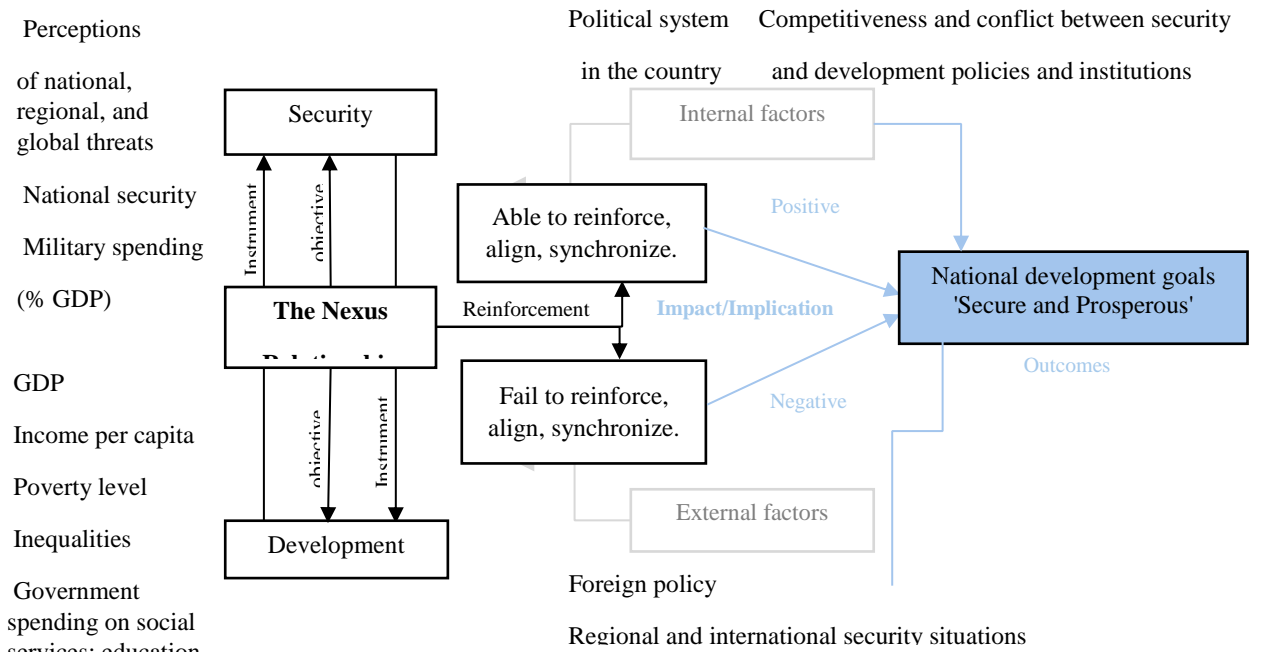
Given the national-level focus of this study, these selected documents may not fully encompass all perspectives of the security and development communities, including the nuances of policy implementation and the opinions or values of officers.

## **Conceptual Framework**

In this paper, I develop the nexus framework to foster overall security, prosperity, and well-being positively. This framework is derived from Stewart's concept (2004), which categorizes the security-development relationship into three types: instruments and objectives. Additionally, Stern and Öjendal (2010) introduced the ideas of mutual reinforcement and mutual collapse, which can have positive and negative implications for achieving twin desirable goals. These goals are integral to a country's advancement and survival in the international system, as explained by Goldman and Blanken (2005). As this study focuses on national security and military defense, considering development from both economic and social dimensions, I then incorporate internal and external factors noted by Tschirgi et al. (2010) that influence a country's security and development prospects at domestic, regional, and international levels.

By perceiving the nexus as both a positive instrument and an objective, I emphasize that security and development should ideally be connected and mutually reinforced. The theory of balance plays a crucial role here. It is based on the acknowledgment that the nexus refers to a holistic approach and policy coherence between security and development (SIPRI, 2019), addressing problems or goals from diverse perspectives (Picciotto, 2004). At the same time, it recognizes that there may be fluctuations in public spending on military, economic activities, and social services over time (Stewart, 2004) that show signs of imbalance. However, the prediction is that imbalance, characterized by high military spending and weapons accumulation, for example, does not guarantee a country's security or prosperity. This imbalance concerns security actors operating within the nexus, especially in cases where the military has played a crucial role by involving itself in internal political affairs to counter adverse developments, such as addressing natural disasters, drug trafficking, and insurgencies (de Carvalho & Lima, 2023a; Fijałkowski & Jarzabek, 2019).

To determine whether security and development in the nexus are balanced, there are three critical elements for consideration:



Remark: The author has developed the diagram based on the literature from Stewart (2004), Stern and Öjendal (2010), Tschirgi et al. (2010), and Goldman and Blanken (2005).

**Figure 1: Conceptual Framework**

- A. **A balanced distribution of national interests, policy objectives, and budget:** It is essential to note that a balanced distribution does not strictly imply numerical equality but a state of equilibrium.
- B. **Military means for defense, not offense:** The balanced nexus emphasizes using military means for defense rather than offense while maintaining balanced attention to socio-economic interests.
- C. **High levels of security and development:** Ultimately, the balanced nexus should result in high levels of both security and development.

The theory focuses on balancing security and development as instruments and objectives, which includes weighing interests, efforts, resources, and budget allocation within the national goals. When examining specific public policies, balancing can mean finding a middle ground between national security and human security, as seen in migration policies. Similarly, it involves balancing national security and human rights in counterterrorism policies. In foreign policy, ‘balance’ refers to finding ways to leverage from security and development for national interests while maintaining the capability to choose alliances with major powers (de Brouwer, 2020). This approach aims to achieve peace and security by balancing power in international relations (Morgan, 2006).



This fact prompts us to reconsider the concept of state instruments or national power, which includes various factors categorized into both soft power and hard power. These factors can be compared to the security-development nexus, serving as state instruments in terms of military power (such as the quantity and quality of forces) and economic strength (such as GDP).

## **Findings and Discussion**

The findings from assessing the theory reveal that Thailand's situation is characterized by an imbalance, which can be categorized into two approaches: acceptable and unacceptable imbalances.

### ***Acceptable Imbalance***

When considering the policy statements from the three governments, national strategy, and public concerns classified as national agendas representing public interests, there is a greater emphasis on economic, social, and environmental development than on military security. This imbalance in objectives is deemed acceptable because it aligns with Thailand's demands for development. For instance, progress reports from 2021 to 2023 highlight critical ongoing issues such as agriculture, tourism, livable areas and cities, and industrial and service sectors. Meanwhile, the goals related to the military's preparedness to address threats and increase peace and tranquility in the southern border provinces are considered achieved. The urgent policies of the three governments collectively prioritize national competitiveness, skill enhancement, and the quality of life for the population, including health, education, and employment, as well as addressing environmental issues.

### ***Unacceptable Imbalance***

Unacceptable imbalance occurs when considering the military's political role in national development, including a legacy of military thinking and its networks under the 20-Year National Strategy that will last until 2037. Budget allocation is another concern. Despite the military budget not significantly exceeding allocations for education and interior affairs over the past decade, with approximately equal distribution—ranking fourth and fifth highest in 2019 (Itsakul, 2019) and 2024 (Jiraporn, 2024), respectively—the overall security budget might be higher but obscured under the guise of development. This situation may arise from overlapping responsibilities or challenges of clearly delineating project objectives—where interconnectedness within the nexus is concerned, posing the question about transparency.

Although the eight national interests outlined in the four editions of Thailand's national security policy and plan cover every dimension of interests equally, evaluations from 2014 to 2023 under military governance reveal unclear military needs and issues of justification, especially concerning national security. Specific issues include the military justification of coups d'état as necessary, the imposition of prolonged states of emergency or martial law in southern provinces, the use of force to suppress domestic demonstrations concerning development issues, and the procurement of submarines justified as a crucial enhancement for national security and defense capabilities.

The unacceptable imbalance undermines Thailand's national development goals, failing to significantly improve security or development. Progress reports and indicators demonstrate that Thailand's goal of significantly bolstering national security across all dimensions by 2027 remains challenging. Throughout most of General Prayut's regime, Thailand was categorized as moderately peaceful but leaning towards violence and vulnerability according to the Global Peace Index (GPI). Improvement began with the transition to civilian government in 2023 (IEP, 2023). Moreover, the Legatum Prosperity Index (LPI) identifies the safety and security pillar as problematic (LI, 2023), posing the greatest obstacle to overall prosperity.

However, when considering the theory of balance, which discusses high military spending and weapons accumulation as a negative implication, Thailand's situation of 'imbalance' may not completely align with the theory. This discrepancy is due to insufficient data on budget prioritization methods and the coordination between agencies responsible for evaluating national strategy's progress and those allocating budgets. Furthermore, it cannot be definitively concluded that issues with the development budget stem primarily from excessive military allocations or funds diverted by the Ministry of Defense. Inefficiencies in using development funds to address urgent needs and priorities may also contribute to these issues.

Regarding military means, while Thailand's focus on self-defense, as explained by the Ministry of Defense, aims for *deterrence* rather than offensive capabilities, questions remain about the scale and direction of its self-defense efforts. Significant budget allocations to military personnel suggest a focus on maintaining a sizable military or reserve force, consistent with the findings of the Global Militarization Index (GMI) over the past decade, highlighting concerns about military personnel rather than budget or weapons procurement (BICC, 2022). This perspective raises questions about whether such a scale is necessary for Thailand's military needs.

Another implication of the imbalance is that strictly adhering to defense-offense dichotomies may not fully capture Thailand's military direction. Policymakers reckon with the influence and changes in external factors, including at global and regional levels. These factors include the international structure characterized by multipolarity, potential new international regulations or measures impacting trade, finance, investment, environment, and human rights, and the influence and competition among major powers in the region for their security, military, and development interests, which *may* lead to regional conflicts. In this regard, Thailand recognizes the need to adapt to potential shifts in the balance of power, requiring greater flexibility to maintain equilibrium by encompassing multilateral diplomacy and leveraging mutual interests.

Additionally, policymakers recognize critical issues concerning development and Non-Traditional Security (NTS). These include the roles of technological advancements like cybercrime, the challenges posed by an aging society and changing population demographics affecting the labor force, increased natural disasters due to climate change impacting biodiversity, agriculture, food security, and livelihoods, as well as concerns related to energy and food security, environmental degradation from economic activities, health emergencies, and non-traditional

security threats such as transnational crime, human trafficking, drug trafficking, money laundering, and corruption.

Considering these multifaceted challenges and Thailand's aspirations to become a middle power—expressed in policy documents outlining its ambitions to lead development within ASEAN, serve as a hub for trade, investment, and logistics connecting with multiple countries, advance beyond middle-income status, and acquire military capabilities comparable to those of other ASEAN countries—the strategic focus should be on enhancing national hard power. Key areas of such enhancement include acquiring capabilities and strengths in the security and development realms.

### **Conclusions and Recommendations**

Reassessing the security-development nexus in Thailand from 2014 to 2024 reveals an imbalance characterized by a dual emphasis: an acceptable imbalance with greater focus on development and an unacceptable imbalance with heightened attention to security. The latter imbalance stems from the military's significant role in national development, driven by perceptions of threats that often lead to overemphasizing security, justifications based on perceived necessity, or securing interests that may not always align with national and public interests.

The implication of such imbalance raises the fundamental question of whether balancing matters. While prioritizing development appears valid given Thailand's needs and many aspects of security could potentially be addressed through non-military means, the consideration of external factors influencing Thailand's development trajectory in both security and development, along with Thailand's position in the international balance of power—including strategies like hedging in response to shifts in global structures—necessitates a critical reassessment of the need for balance in the security-development nexus. This reassessment entails approaching it as a component of hard power crucial to safeguarding Thailand's sovereignty and other equally vital national interests. Such an approach will enable Thailand to select the most effective tools to address any emerging circumstances. In this context, it can be inferred that maintaining a balanced nexus is significant for developing countries aspiring to achieve middle-power status.

In Thailand, achieving a balanced nexus requires reviewing trade-offs between the goals of security and prosperity outlined in the national strategy of *Security, Prosperity, and Sustainability*, similar to acknowledging the trade-offs between Prosperity and Sustainability. Additionally, there is the need to establish a clear definition of military modernity, similar to the modernization efforts in development that underpin Thailand's trajectory. Military modernization may involve managing the quality and quantity of personnel to align with domestic and regional threats and explicitly delineating missions and responsibilities. This approach will ensure the appropriate allocation of necessary budgets for effective use in military operations, aligning with the country's security needs and modernization strategies. It will also provide a basis for assessing whether military funds could be reallocated for development, assuming that existing strategies and budgets effectively provide sufficient tools for the government (Snyder, 1999).

Conversely, if the path toward military modernization remains unclear, it will adversely impact overall national development, exacerbating the existing imbalance.

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# **KAREN WOMEN VILLAGE CHIEFS: LEADERSHIP CHALLENGES DURING THE CEASEFIRE PERIOD**

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## **Abstract**

During the conflict between the Karen National Union (KNU) and the national government, the Burmese military (Myanmar armed forces) targeted villagers, particularly village heads, who were accused of being supporters of the KNU. They subjected them to torture, arbitrary arrest, killing, and forced portering. As a result, male villagers left their villages or fought on the front lines, leaving women, children, and the elderly behind. Traditional cultural respect for middle-aged and older women led to the selection of female village leaders for household and farming tasks. However, after a preliminary ceasefire agreement was signed in 2012, men returned to the community and resumed their customary leadership positions. Most of the female village chiefs gave up their leadership roles and returned to their traditional gender roles, and only a few could retain their roles. The study investigates how gender roles changed during the ceasefire, the challenges that Karen women village chiefs faced in maintaining leadership positions, as well as their perceptions and responses. The research discovered that conflict disrupted gender norms and created certain leadership opportunities for Karen women, which are typically not associated with their gender. The end of the armed conflict created a fluid situation where some women village chiefs whose views have shifted continue to assert their leadership roles. In contrast, others are willing to accept a return to traditional gender norms. The research also found that women village chiefs have not entirely withdrawn from community leadership roles; instead, they shifted to other roles that they perceived were more suitable for them to continue their involvement as community leaders.

**Keywords:** Women Village Chief, Community Leadership, Gender Norms, Karen State, Myanmar

## **Introduction**

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<sup>1</sup> Student of Master of Arts in Human Rights (MAHR), at Mahidol University, Thailand. This paper is part of the thesis entitled “Karen Women Village Chiefs: Leadership Challenges During Ceasefire Period.”

Myanmar, formerly Burma, is a diverse country with 135 ethnic groups, including most Buddhist Burmese-speaking Burma. Political and ethnic disputes have persisted since pre-independence, with ethnic armed organizations expressing a desire for more robust social, economic, cultural, civil, and political rights in a federal democratic country (D'Cunha et al., 2016, p. 7). The KNU's conflict with the Burmese government is the longest-running civil conflict of the 20th century. Active combat lasted from 1949 to 1994, followed by intermittent clashes from 1995 to 2012 (Israelsen, 2018, p. 379). A study by Lian (2015) found that the KNU has continuously fought for autonomy and self-determination on behalf of the Karen people. The Karen people, who constitute one of the most significant ethnic minorities, have experienced prolonged periods of civil war under various regimes, including military dictatorships. Nevertheless, the national government has constantly resisted these requests and has strived to uphold centralized authority over the country. The KNU functions mainly as a parallel government in Karen areas of southeast Myanmar, which are not under Myanmar government control or are under mixed control (Karen Human Rights Group, 2017).

From 1995 to 1999, government military troops targeted men in Karen villages, leading to a shift in community leadership. As the Burmese Army's persecution of male villagers intensified, it became more likely for female villagers to be elected to village chief positions, as male villagers were unwilling to risk their lives. The sudden absence of male leaders allowed women to step up and take on community leadership roles (Karen Women's Organization, 2020). According to the Karen Human Rights Group (KHRG, 2016), the increased prevalence of female village heads challenged traditional notions of men as natural leaders. As a result of the armed conflict, Karen women have taken on new roles previously dominated by men, such as liaising between the KNU and Burmese military soldiers (Tatmadaw) or village heads. These roles are crucial for the Karen community, as their leadership can mitigate the impact of armed conflict (UN Women, 2015). Moreover, during the armed conflict, some Karen women have fought alongside males as female combatants, but they have also supported the troops by giving them shelter, food, and medical care. Aside from these additional responsibilities, they often respond directly to the needs of communities affected by conflict. As civilians, they have not been passive victims but active agents in protecting their families and communities against violence and preventing the escalation of hostilities. Women often faced significant pressure to provide food and resources to Burmese military soldiers when they visited local villages (International Alert, 2020).

After a lengthy internal conflict, President U Thein Sein initiated a political reform process in 2011. The reform sparked optimism that the nation might evolve into a more democratic and inclusive society. The KNU signed two bilateral ceasefires with the new Myanmar government in 2012. "Ceasefire" refers to two separate ceasefires signed in 2012 and 2015 (Karen Human Rights Group, 2016). The ceasefires led to improved security conditions, reduced violence and human rights abuses, and increased access to services in Karen State, both mixed-control and KNU-controlled areas. Despite improvements, areas under partial KNU control have seen a decrease in women in village chief roles due to male villagers returning to the community and resuming their

traditional roles (Israelsen, 2019). The Karen Women's Organization (KWO, 2020) found that only seven out of 109 women village chiefs could retain their posts, while four took on other leadership roles. A few were still acting as village advisors or providing social services in some capacity.

Many Karen women relinquished their roles as village leaders during the interim period when the ceasefire was in place, mostly in response to the changing political landscape. Even though a few women still held leadership positions, community views began shifting back toward a reliance on male leadership. According to the Karen Women's Organization (2020), women leaders may feel less relevant as the community's situation improves. The case of Karen women village chiefs raises essential questions about how armed conflict and peace impact gender relations and practices. These questions are relevant to understanding the relationship between gender, conflict, and peace in a larger context. Specifically, the marginalization of women from community leadership positions is common worldwide. The Karen case demonstrates that women can gain and lose access to leadership roles under changing conditions during the ceasefire period. Therefore, this study will investigate what happened to those Karen women village chiefs during the ceasefire period when men returned to the community after the 2012 ceasefire agreement. The research seeks to identify the primary challenges impeding their continued leadership within the political and social domains. Research into the experience of Karen women village chiefs is not only crucial for understanding the situation in southeast Myanmar, but also for shedding light on the dynamics of gender, war, and peace more generally.

## **Methodology**

This study utilized a phenomenological research design and qualitative approach to understand the challenges faced by Karen women in leadership during the ceasefire period. A total of 14 respondents were interviewed using semi-structured interviews. Six of these respondents were Karen women, former village chiefs, and they were interviewed using in-depth interviews (IDIs). The remaining eight respondents were interviewed using key informant interviews (KIIs). These eight respondents included representatives from civil society organizations, KNU leaders, current male village chiefs, and villagers. These interviews were conducted as part of the primary data source. The desk review thoroughly explores existing knowledge and gender concepts in the field using secondary data sources like research papers, academic articles, NGO reports, books, and case studies.

## **Findings**

The study discovered several factors that directly influenced a shift in leadership positions among Karen women village chiefs in Karen State. According to the research hypothesis, conflict disrupts the traditional power dynamics within the community, providing an opportunity for women to challenge patriarchal norms and assert their leadership capabilities. This shift in power dynamics may lead to greater gender equality and increased opportunities for Karen women to

take on leadership roles. However, while conflict created specific leadership opportunities for Karen women, the post-conflict situation also created many obstacles. Therefore, if women village chiefs want to consolidate the leadership gains they made during the armed conflict, they must struggle to assert their leadership during the transition from conflict to a more peaceful situation. Other factors, such as family and community support, also enabled women leaders to maintain their leadership roles or adapt to new roles. The key findings are as follows:

### **Women Leaders Expected to Adhere to Gender Norms**

The research discovered that women village chiefs faced many obstacles to maintaining their leadership roles during the ceasefire period. Within Karen societies, women are expected to carry out domestic duties, including cooking, maintaining the household, and tending to the needs of children. Although males are commonly seen as significant figures and authoritative decision-makers, both inside their households and in broader society, women are frequently disregarded and undervalued when assuming leadership positions. The findings are consistent with earlier research by the Karen Women's Organization (2020), which emphasizes that women find it more challenging to fulfill the duties of a village chief because they must also act as the primary caregiver in the home. This means that in addition to the responsibilities of a village chief, they are also still expected to fulfill domestic responsibilities. This differs from male village chiefs, who typically pass their responsibilities onto their female family members upon taking on the position. Furthermore, previous research by Koenig and Eagly (2014) supports the idea that gender stereotypes, which result in unequal distribution of responsibilities between men and women at home and the workplace, are socially acceptable within a specific culture or society.

Furthermore, the study found that the patriarchal structures in the KNU strongly hinder women's participation in political leadership roles within the KNU's governance structure. This structure has resulted in a lack of female representation and participation in KNU districts and township administrative positions and decision-making processes among Karen National Union (KNU) central executive standing committee members. Although the KNU has a gender policy framework, it must address these gender disparities and promote gender equality to fully utilize the talents and perspectives of all members, regardless of gender.

Many husbands of former women village chiefs showed a lack of support for their wives' involvement in the public sphere, as they believed that their wives' primary role was to be confined to the household and attend to the family's needs. Additionally, the research discovered that, for these reasons, some women village chiefs chose to return to their traditional gender roles. Moreover, research indicates that societal perceptions of women, particularly in terms of travel, perpetuate gender stereotypes and limit their opportunities to assume leadership roles. Previous research by the United Nations Development Programme (UNDP, 2015) indicates that traditional gender roles still influence who is perceived as more capable of fulfilling certain duties, even in the face of advances in transportation technology. Generally, going out at night is considered

inappropriate for women in Myanmar, particularly in rural areas. Women are not given much support or motivation to drive automobiles due to traditional gender perceptions of travel. If they do, they are criticized and seen as showy, flouting traditional gender norms. This criticism perpetuates a cycle of inequality that limits the potential for women to take on leadership roles and contribute fully to their communities.

### **Reversion to Traditional Gender Roles Post-Crisis**

The research reveals that conflict created opportunities for women to take up leadership roles, filling in the gaps left by men. However, with the return of peace and security after the ceasefire, patriarchal structures were re-imposed instead of evolving, forcing women village chiefs to revert to the limitations of their traditional gender roles, which re-emerged as the immediate need for female leadership diminished. Conflict situations could disturb societal hierarchies, unintentionally providing opportunities for women to assume positions that men traditionally held. In the absence of men who may have engaged in combat or have fled due to fear of human rights violations and insecurity, women demonstrate their capabilities in leadership, negotiation, and community management. These upheaval periods highlight the latent potential of female leaders and challenge the conventional gender hierarchy. However, the restoration of peace triggers a regression to established patriarchal norms. The societal expectation for women to return to domestic roles is strong despite their leadership abilities during the crisis. This dynamic reflects a broader issue of gender inequality, where women's contributions are valued only in times of necessity and not as a permanent change in gender roles. The return of male leaders often displaces women from the positions they held during the conflict, reinforcing traditional gender roles, and limiting the long-term impact of their leadership experience. The findings are in line with previous research in the literature review, which found that under specific circumstances, civil war can disturb established patriarchal systems and traditions, leading to a rise in women's involvement in the public.

### **Political Socialization Enhances Women's Confidence in Political Participation**

The research revealed that some former women village chiefs have not entirely withdrawn from community participation; instead, they have endeavored to shift to alternative positions more suitable for their present situations. Four out of six former women village chiefs interviewed in this study seized the chance for new positions to sustain their involvement as female leaders in the community. Political socialization has played a pivotal role in enhancing women's confidence to assert themselves in public affairs, particularly in administrative and religious domains traditionally dominated by men. Their perseverance throughout the ceasefire period underscores a determined effort to carve out and sustain spaces of authority previously monopolized by men.

These transformations signify individual empowerment and broader societal acceptance and support for women's leadership. By challenging and redefining traditional gender roles, these women have garnered community backing and recognition, fostering a more inclusive and

equitable environment in public affairs. This shift acknowledges the value of women's contributions and paves the way for continued progress toward gender parity in leadership roles.

### **Community and Family Support Enabling Women Leaders to Navigate Gender Norms**

Support from family members and society remarkably enhanced women's prospects of assuming leadership positions. It enables individuals to concentrate on their obligations and tasks without the additional strain of financial encumbrances. Additionally, family and community support help women leaders navigate traditional gender roles. Women leaders receive support from family members and community neighbors to ensure they are not perceived as neglecting traditional gender roles, such as household chores, or violating gender norms, such as traveling at night. This support is crucial in allowing women to fulfill their leadership responsibilities while maintaining social acceptance and mitigating potential backlash. Family and community involvement in sharing domestic duties and providing logistical assistance enables women leaders to navigate the public sphere effectively, thus reinforcing their capacity to lead without being stigmatized for challenging established gender expectations. The findings align with scholars such as Latt et al. (2017) and the UNDP (2015), who note that women are more inclined to participate in political activities and seek leadership positions when they receive financial or emotional support from family members. A robust family support system boosts women's confidence and helps alleviate specific challenges they face in the field or politics.

### **Conclusion**

In summary, this study highlights the agencies employed by female village chiefs to overcome obstacles and sustain their leadership positions during the ceasefire period. Through their determination and community support to alleviate their travel restrictions, they could also delegate their caregiver roles to other family members. These female village chiefs cultivated leadership skills, navigated challenges, and maintained leadership roles. This fact demonstrates the importance of community backing, along with the backing of their family members and the delegation of caregiving duties among other family members and community members so they can fulfill their duties outside the house. The communal support alleviates their caregiving roles and enables them to concentrate on their roles as community leaders and decision-makers.

The study of Karen women village chiefs during the ceasefire period provides valuable insights into the relationship between gender and politics in Myanmar, particularly in the context of the re-erupted armed conflict. This research offers lessons for global efforts to promote gender equality and support women's leadership in conflict-affected areas. The following recommendations ensue based on the research findings and analysis presented in this thesis.

### **Necessity to Promote Gender Awareness and Create Supportive Environments for Women Leaders**



Only a handful of women have been able to navigate their way into leadership roles. To make public spaces more receptive to women's leadership, it is crucial to cultivate gender awareness at the household and communal levels. This cultivation involves promoting discussions and education about gender equality, challenging traditional gender norms, and recognizing the value of women's contributions in leadership positions. By fostering gender awareness, households and communities can shift their attitudes towards gender roles and expectations. Women should not have to feel pressured to conform to traditional gender roles or rely solely on their neighbors for protection against potential gender bias and backlash. Instead, with increased awareness and support, women can confidently participate in leadership roles without fear of societal retribution. This collective effort towards gender equality can create an environment where women's leadership is accepted and celebrated, paving the way for a more equitable and inclusive society.

Recommendations include (1) The KNU and non-governmental actors such as non-governmental organizations (NGOs) and community-based organizations (CBOs) who should provide skills and leadership training on the issue of gender equality and (rural) women's rights to local administration offices (township and village tract levels). (2) For all relevant stakeholders, it will be crucial to offer training and assistance to empower female village leaders to acquire the necessary expertise and understanding to guide their communities in times of tranquility. (3) International donors should support and fund NGOs and CBOs that provide gender awareness, gender mainstreaming training, and equal participation and involvement of women from different backgrounds at all governance, decision-making, and dialogue levels.

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# EXPLORING AFFECTIVE REACTIONS AND WORK ATTITUDES AMONG GENERATION Y AND EARLY GEN-Z: A STUDY OF WORK ENVIRONMENT FACTORS AND EVENTS

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## Abstract

Today's working population, including Generation Y and early Generation Z, holds unique and diverse opinions, views, and values. These cohorts spend a significant portion of their time in the workplace, where the implication of various work events and environmental characteristics significantly influences their experiences. While some events evoke positive affective responses, others trigger adverse reactions, shaping their daily interactions and overall well-being. This study explores how Generation Y and early Generation Z, influenced by contemporary and traditional societal factors, perceive the modern workplace. Recognizing the critical role of a supportive and healthy work environment in fostering employees' satisfaction and productivity, this research explores key workplace features and events. Through an online survey conducted among white-collar employees in Thailand and India, the study examines affective reactions, job satisfaction, and factors influencing workplace preferences. Key findings indicate that different cohorts and countries have varying values and opinions about the workplace among males and females. Disparities in the workplace still exist in this contemporary world. After COVID-19, most employees prefer working from home. Additionally, this study shows that employees want to change their current jobs. Challenges such as dress code issues, language barriers, and racism persist, with female employees facing language and dress code issues more frequently. Happiness and satisfaction depend on family support, manager's and colleagues' support, job roles, and salary. To ensure long-term employee happiness, salary, good management, and career progression are crucial factors. Employees also report experiencing work pressure during tight deadlines, adopting new technology, and communicating with peers and supervisors. Males adapt more quickly to new skills, critical work, and flexible work processes than females, who are more practical and prioritize work. Lastly, the research shows employees feel exhausted after reaching home and highlights physical discomfort and back pain during work. Employees are willing to engage in meditation and join wellness programs to reduce physical and mental exhaustion. This study demonstrates that Generation Y and Early Gen-Z employees experience diverse emotional responses influenced by workplace environmental factors such as tight deadlines, KPI, modern technology, and workplace events like daily interactions involving communication, language barriers, racism, and salary disparities. These responses reflect broader work attitudes such as career satisfaction, task prioritization, adaptability to change, and decision-making regarding job transitions and responsibilities.

**Keywords:** Generation Y, Generation Z, Affective Event Theory, Work Environment, Work Event

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## Introduction

In today's world, Generation Y (born between 1980 to 1996), and Early Generation Z (born between 1997 to 2004) stand out more prominently than any other generation. This prominence is attributable to their distinct views, values, and perceptions, which differ from those of preceding generations. These generational cohorts exhibit unique characteristics that have become a focal point of modern societal and cultural studies. Generation Y, also known as Millennials, includes those born from 1980 to 1996 (Ng & Johnson, 2015). After a thorough review of secondary data and research papers, it is evident that this generation constitutes the current working population. Characterized by their bluntness, tech-savviness, and commitment to diversity and social responsibility, Millennials value education, quality, and discounts in purchasing decisions. They prefer investment over luxury spending, meticulously plan their activities, and strive for work-life balance and job security. As the first fully digital generation, they excel in multitasking and team-oriented work, favor mobile banking, and are motivated by hedonic factors. Millennials exhibit six lifestyle segments (hedonic-focused, future-focused, practical-oriented, Online Active, Traditional Focused, Money focused.), showing a decline in work centrality due to materialistic values and a solid commitment to environmental sustainability. On the other hand, Generation Z encompasses individuals born between 1997 and 2010 (Seemiller & Grace, 2018). They are entering the workforce, often without financial pressure due to their families' substantial earnings. They engage actively with digital platforms for financial activities and prefer workplaces with generous compensation, open office spaces, developmental opportunities, and job security. Gen Z values mentorship, honesty, and ethics and shows a commitment to sustainability through green financing and environmental awareness. They predominantly consume media on platforms like YouTube and social media, reflecting their eagerness for innovation and sustainable practices.

An analysis over the last six decades reveals that although the global population has increased by 300 percent, the ratio of the working age group has reduced by more than 20pp (80 percent → 60 percent). The current working population includes those born between 1977 and 2003, indicating that individuals born between 1977 and 1996 form the working group's core.

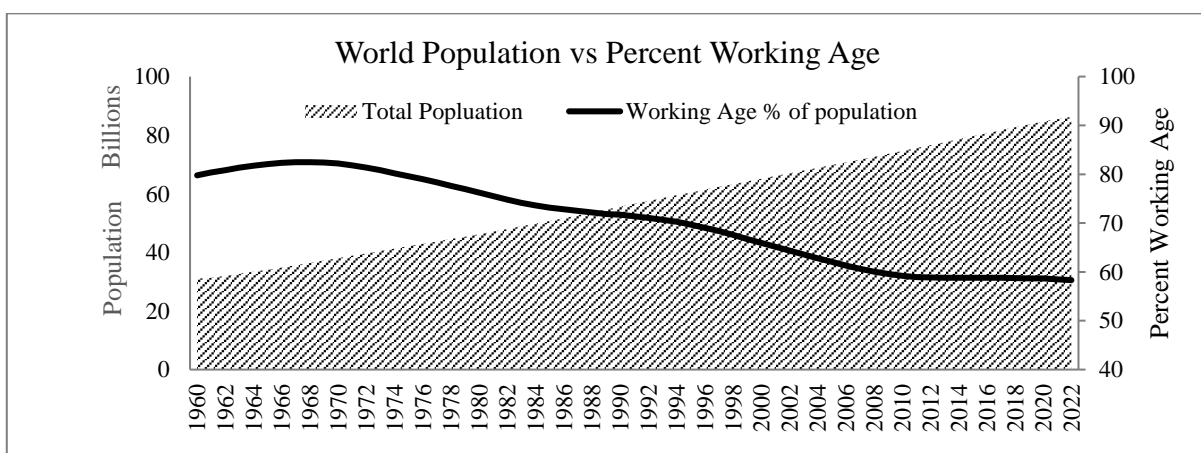


Figure 1: World population and percentage of working age mapping

Projections based on the future of the world population indicate that in the next 25 years, Generation Alpha and Generation Z will become the core working age groups. Future predictions by the United Nations indicate that the width of the population pyramid will narrow, signaling a potential decrease. The working population is a serious threat to the sustainability of our planet & ecosystem. This working population data is not only limited to a particular country; it also reflects migration trends. Migration is driven not only by job opportunities but also by educational purposes. Over the past 20 years, the global migration rate has consistently increased, except during the 2002 SARS outbreak, the 2010 financial crisis, and the 2020 COVID-19 pandemic.

Recent studies show that India became the first country to receive more than USD100 billion in personal remittances in 2022. For context, India's remittances exceed those of the following two countries Mexico (USD67 billion) and China (USD50 billion) combined. Over the past two decades, the top 10 countries receiving remittances have shifted significantly. European countries have fallen out of the top rankings, replaced by Asian and African countries with large diaspora communities. Notably, the countries they replaced (France, UK, and Germany) have become major destinations for immigrants, from where these remittances are typically sent. The working sector also plays a crucial role in the economic growth of a nation. If we focus on economic growth over the last few decades, Japan has consistently been among the top three largest economies. Recently, the country recently fell to the fourth position (Ap, 2023). This fact indicates that Japan's employees are not as efficient in their work (Wijesighe, 2023). The current working population is less willing to work in traditional companies with traditional working processes. Additionally, Japan still relies on legacy technology, such as fax machines, and has not kept pace with new technology adoption, which is essential for economic development over time (Power, 2023).

Recent studies and various management perspectives based on social media listening indicate that employees who are just starting their careers are often perceived as less responsible than their senior counterparts. Additionally, these new employees frequently prefer to work from home. The COVID-19 pandemic has influenced this behavior among early Generation Z. In Singapore, many employees, specifically those from Generation Z, are more willing to work from home rather than in the office (Tang, 2024). A survey result in China, the findings show that 65 percent of Chinese employees are reported tired and unhappy at work. A head of a Chinese company mentioned the focus of workers are stress and mental health issues. In India, the founder of Infosys works 70 hours a week, which was criticized as regressive in the digital age (Vijayaraghavan, 2023). After evaluating all the mentioned sources and research papers, this study examines and identifies current workplace environment features and events in two Large-scale Asian Economies. Thailand and India by using the Affective Events Theory Framework (Weiss & Cropanzano, 1996). This study aims to understand the current workplace dynamics and events, and how the current workplace situation will pave the way for employee well-being in due course of time.

## **Methodology**

A survey-based questionnaire was circulated for data collection across both India and Thailand. A total of 41 respondents participated in the survey, and the findings from this survey were used as a primary source of data. All respondents were white-collar employees with work experience ranging from six months to more than ten years in private and public organizations. The respondents come from diverse socio-demographic backgrounds and different domains of work.

## Theoretical framework

Affective Event Theory (AET) was used as the base framework for this research work. What is Affective Event Theory? It is defined as how emotions and moods influence job performance and job satisfaction, and it demonstrates that employees react emotionally to things that happen to them at work, this affective consciousness has an explicit impact on behaviors and the attitudes of the employee or worker” (Weiss & Cropanzano, 1996).

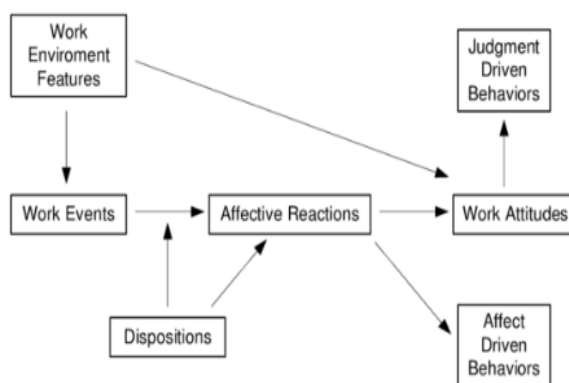


Figure 2: AET (Affective Event Theory) framework

## Framework analysis

In this survey, participants were asked to identify the elements they encounter in the workplace that cause pressure and work-related stress, primarily things like KPIs, tight deadlines, KPI indicators, adoption of modern technology, communication with supervisors, and so on. Additionally, this study aims to determine the most significant challenges they face in the workplace in their day-to-day activities.

## Finding and Discussion

### Theme 1: The Current Working Population’s Working Conditions

This part of the paper examines the working hours, locations, income, and expenses of different generations. Among the 41 respondents, 24 respondents represent Generation Y and 15 represent early Generation Z, while the two fall under Gen -X which has been excluded from the scope of this reporting. Generation Y has work experience ranging from three to over five years, while Generation Z is just entering the workforce, with experience ranging from six months to three years. According to the ILO (International Labour Organization), the standard working hours are 8 hours per day, totaling 48 hours per week. However, based on the survey results both Generation Y and Z report working more than 8 hours daily, often varying between 10 to 12 hours. Further breaking this down to see the

working hour trends between India and Thailand, it observed that Indian employees generally work more than 8 hours per day compared to those in Thailand.

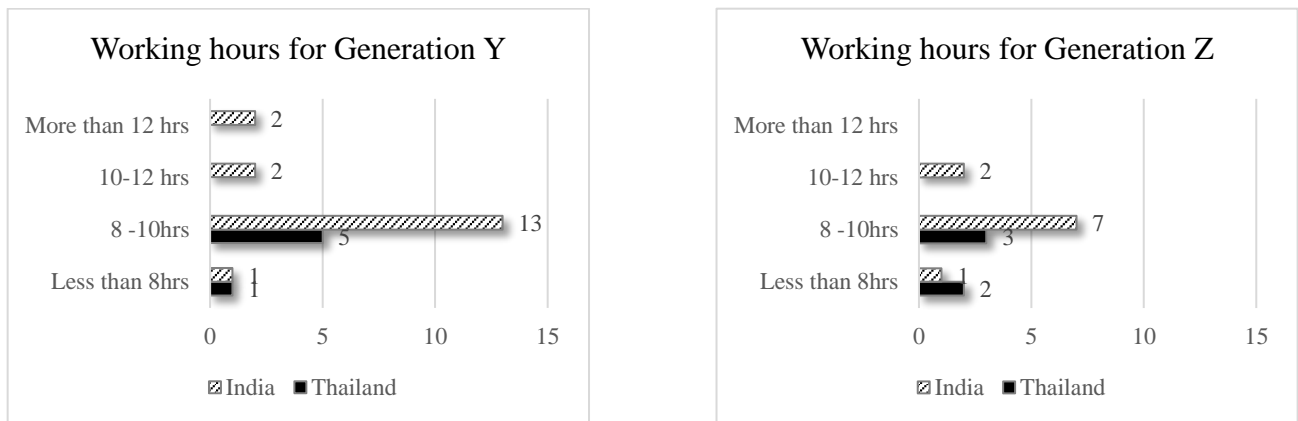


Figure 3: Working hour distribution (Country and Generation)

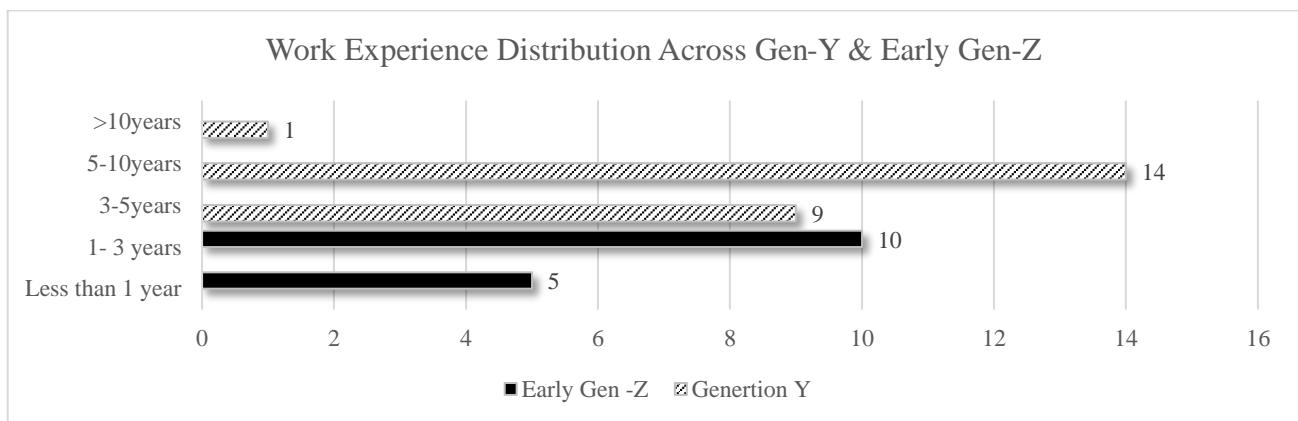


Figure 4: Work Experience distribution among the different generation

In terms of income, Generation Y earns more than Generation Z. Nearly 75 percent of Generation Y respondents earn THB50,000 or more, with monthly expenses accounting for 50-80 percent of their income, including daily expenses, investments, and EMIs. In contrast, early Generation Z respondents earn between THB40,000 on average, with monthly expenses averaging 50-60 percent. The difference across monthly expenditure of their average earnings for Gen-Y & early Gen-Z may be primarily because of the behavioral traits and responsibilities.

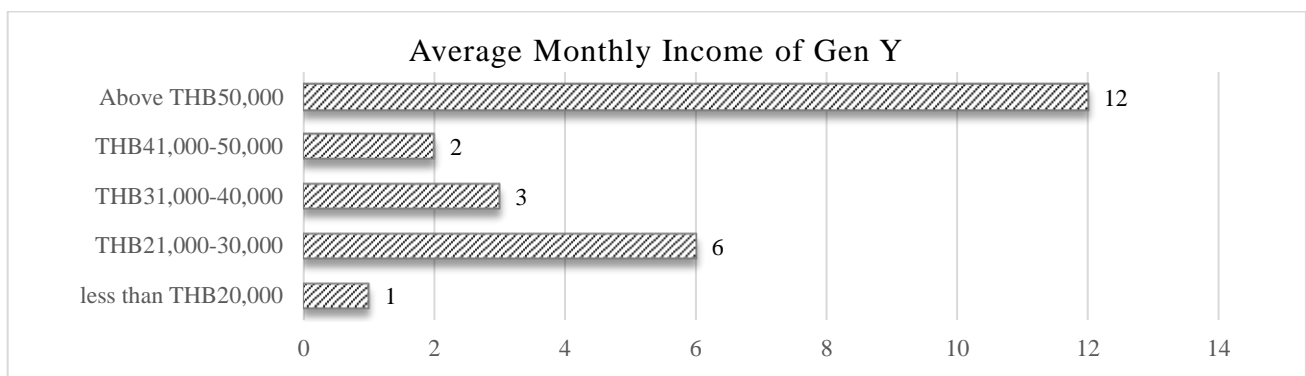


Figure 5: Average monthly income for Generation Y



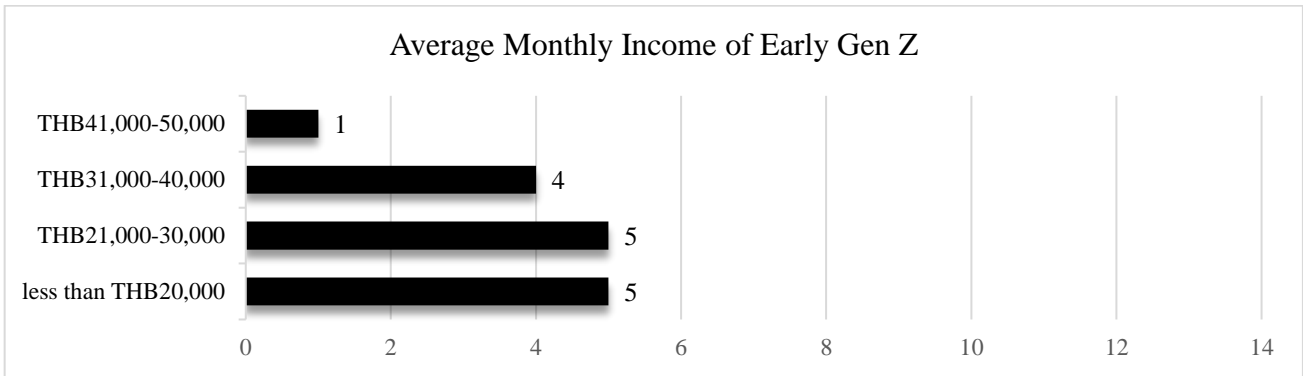


Figure 6: Average monthly income for Early Generation Z

Table 1: Income and Expenses pattern among different generations

| I/E Ratio   | Income → | less than THB20,000 | THB21,000-30,000 | THB31,000-40,000 | THB41,000-50,000 | Above THB50,000 |
|-------------|----------|---------------------|------------------|------------------|------------------|-----------------|
|             | Gen-Y    |                     | 61-80%           | 31-40%           | 61-80%           | 35-50%          |
| Early Gen-Z |          | 30%                 | 61-80%           | 51-60%           | 61-80%           | -               |

**Theme 2: The Environment Features and Work Events**

In this digital era, we are constantly introduced to new devices, technologies, and work processes. To adapt to these new external stimuli, employees must regularly update themselves on new technologies and continuously enroll in training and certification courses. According to the findings from the survey, Generation Y tends to pursue higher degrees like MBA, Master’s, and PhD and training to stay updated, At the same time, Generation Z prefers certification courses and distance master’s degrees, which are no longer commitments and can be completed in a short period. This may indicate a behavioral trait of lower patience level amongst early Gen-Z as compared to those of Gen-Y. However, various events in the workplace, both positive and negative, can impact employees’ emotions and moods. Adverse events can demotivate them, leading to job dissatisfaction or a desire to change jobs, On the other hand, positive events motivate employees to stay with their jobs and happily contribute to their work.

The findings from this study indicate that nearly 40 percent of Generation Y respondents want to change their current jobs within 1-2 months. Similarly, early Gen Z respondents share the same inclination. When an employee spends a long time in the workplace, certain factors contribute to their satisfaction and happiness. These factors include family support, supervisor or peer support, confidence in their work, current salary, and job responsibilities. Both generations believe that family support is a crucial factor in employee happiness. Findings from this study indicate that both generations reported being happy with their managers and colleagues. This is an exciting finding, as peer support, along with support from mentors and senior colleagues, plays a vital role in the overall well-being of employees in the workplace. People spend almost 50 percent of their day at the office, making support from colleagues, superiors, and mentors equally crucial as support from family. Approximately 38 percent of Generation Y respondents are happy with their compensation, but about 30 percent are dissatisfied with their current salary. Meanwhile, among early Gen Z respondents, only 27 percent agree with their current salary, while about 33 percent are dissatisfied with their compensation. Lastly, 17 percent of Generation Y respondents are pleased with their current jobs, but

approximately 45 percent are happy with their jobs overall, and only about 9 percent report that they are unhappy with their current job. On the other hand, about 27 percent of early Generation Z respondents are pleased with their current job, while others are neutral in their opinion.

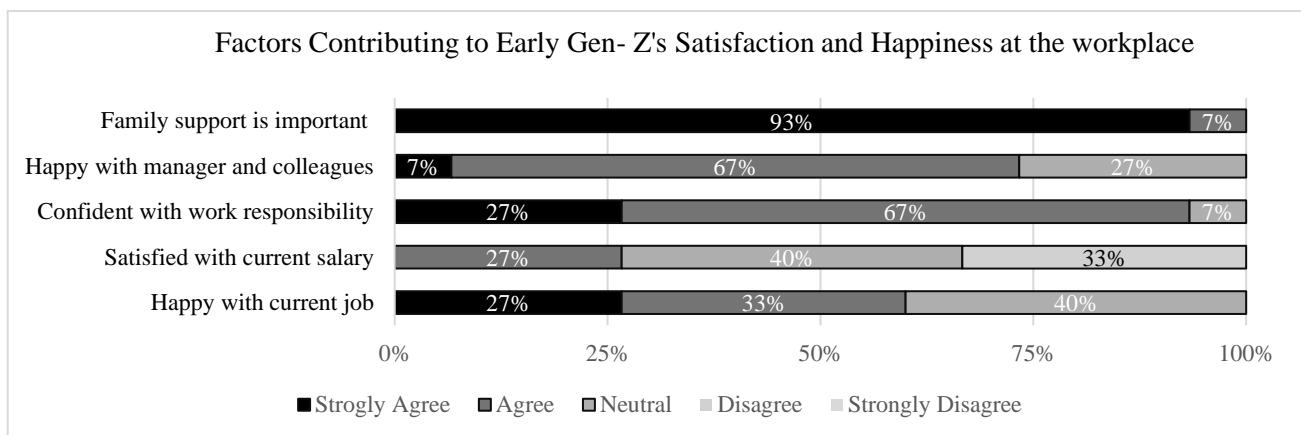
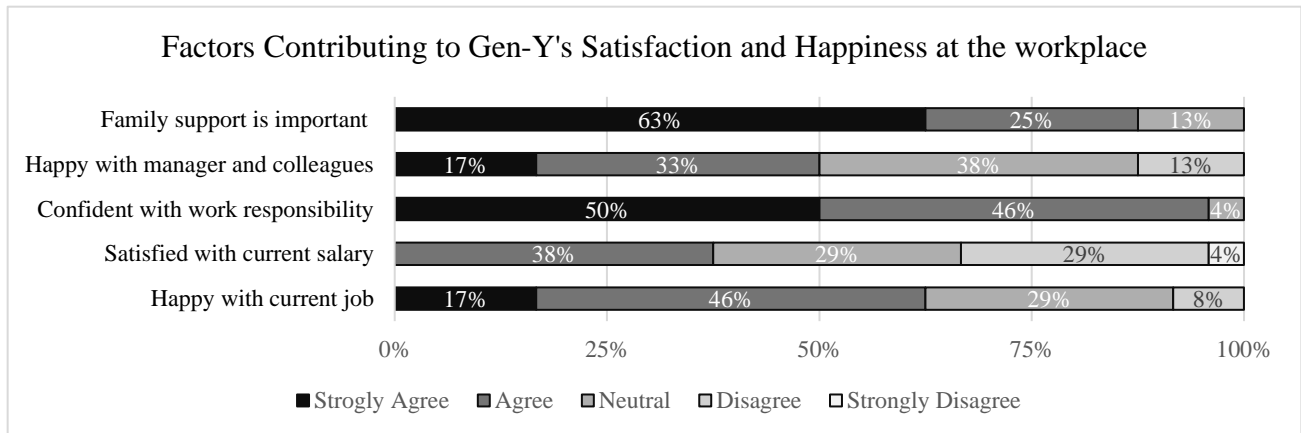


Figure 7: Factors contributing to working population satisfaction and happiness in the workplace

As the thoughts and beliefs differ for both generations, the scope of this study was focused on the essential factors for maintaining happiness among the current working population. Generation Y also considers salary a key factor for employee happiness, followed by career progression. For them, the work environment is third in importance, followed by job stability and good management, On the other hand, Early Generation Z identifies salary as one of the top priorities for employee happiness, followed by the working environment, career progression, good management, and job stability. Additionally, this generation emphasizes the necessity of work-life balance and quality of life.

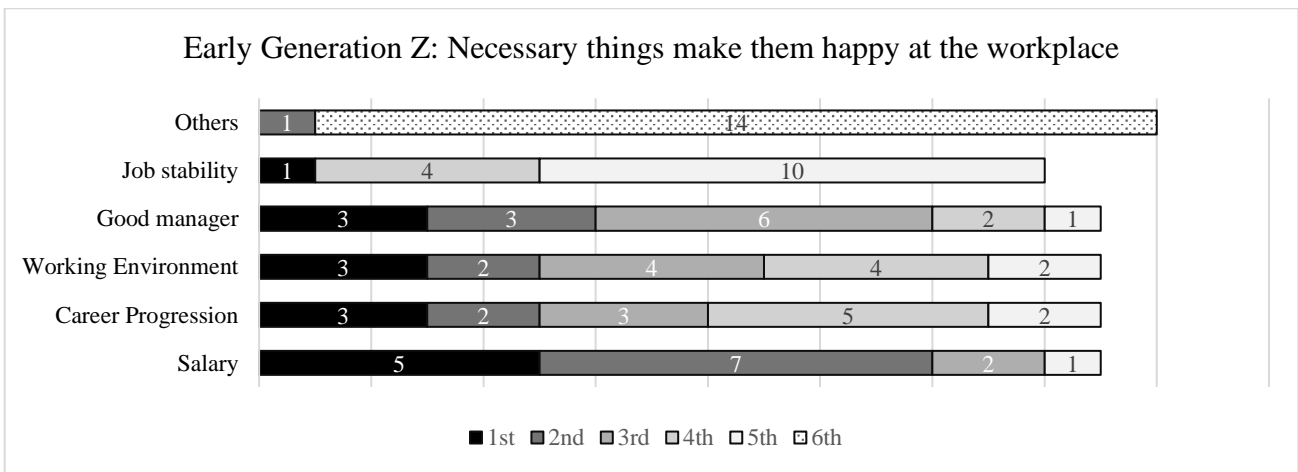
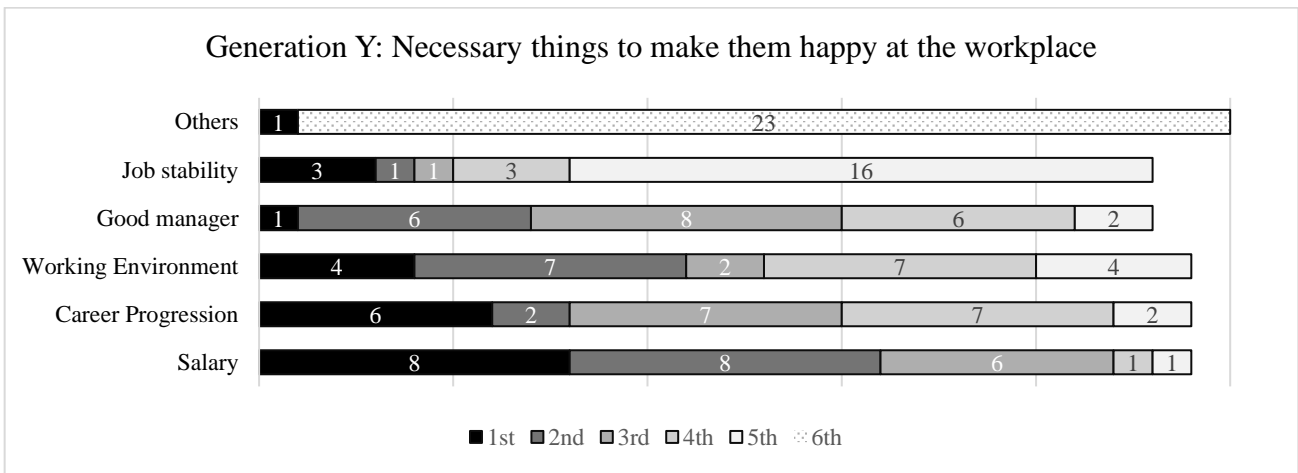


Figure 8: Necessary factors to make working population happiness

The above factors positively affect employees. Now, let us consider the adverse events that create pressure in the workplace. Employees face many challenges in the workplace, with language barriers being a significant issue. Additionally, there are other undisclosed challenges. Immigrant employees not only face language problems but also encounter racism. Both generations have different opinions on what causes work pressure.

Generation Y highlights tight deadlines as one of the crucial elements, followed by KPIs., and the adoption of new technology creates work pressure. While some employees are comfortable with adopting new technology, about 30 percent of Generation Y are uncomfortable with it. On the other hand, early Gen Z identifies adopting new technology as a significant pressure factor. Although they are not entirely comfortable, they try to adapt, which takes time. However, no one reports feeling uncomfortable because many organizations have Generation Z employees who are already familiar with AI and its new technology. They consider communication with supervisors and tight deadlines as other essential factors creating workplace pressure. They also choose work according to urgency and importance, and lastly, they believe communication with peers and KPIs creates work pressure.

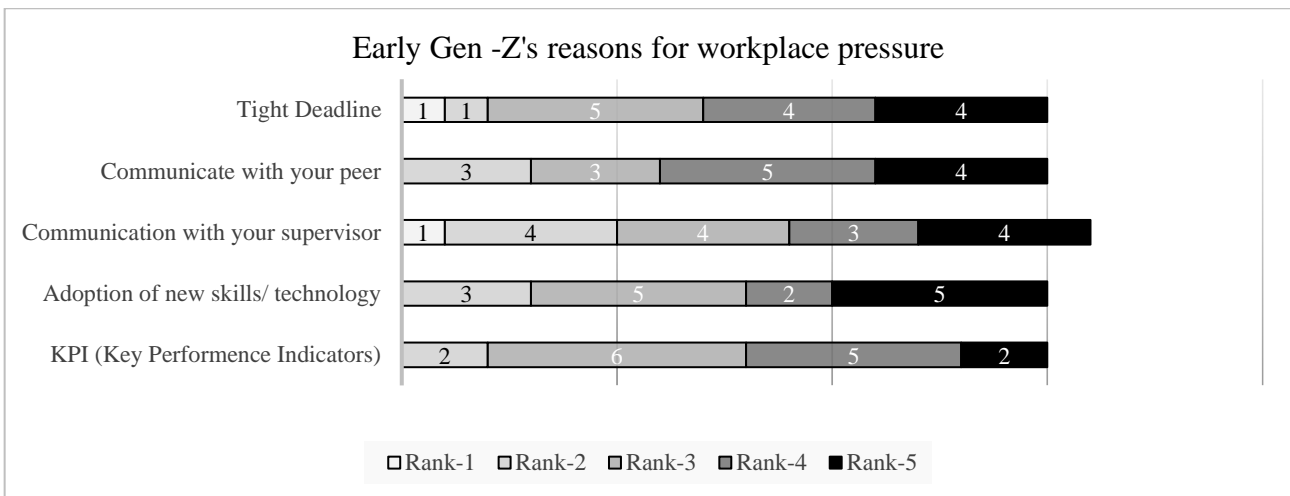
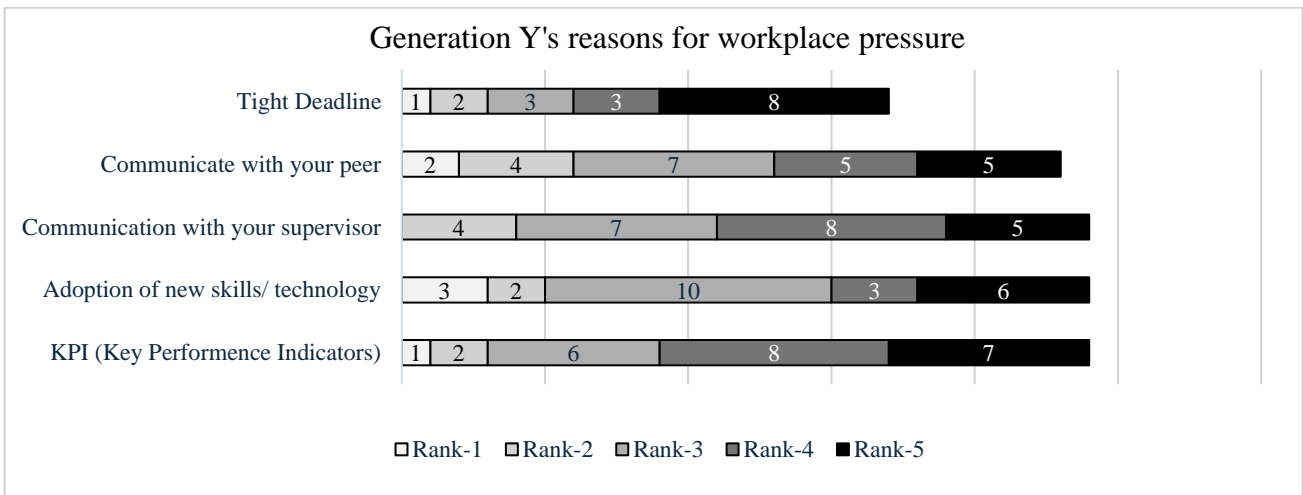


Figure 9: Factors that make current working population pressure

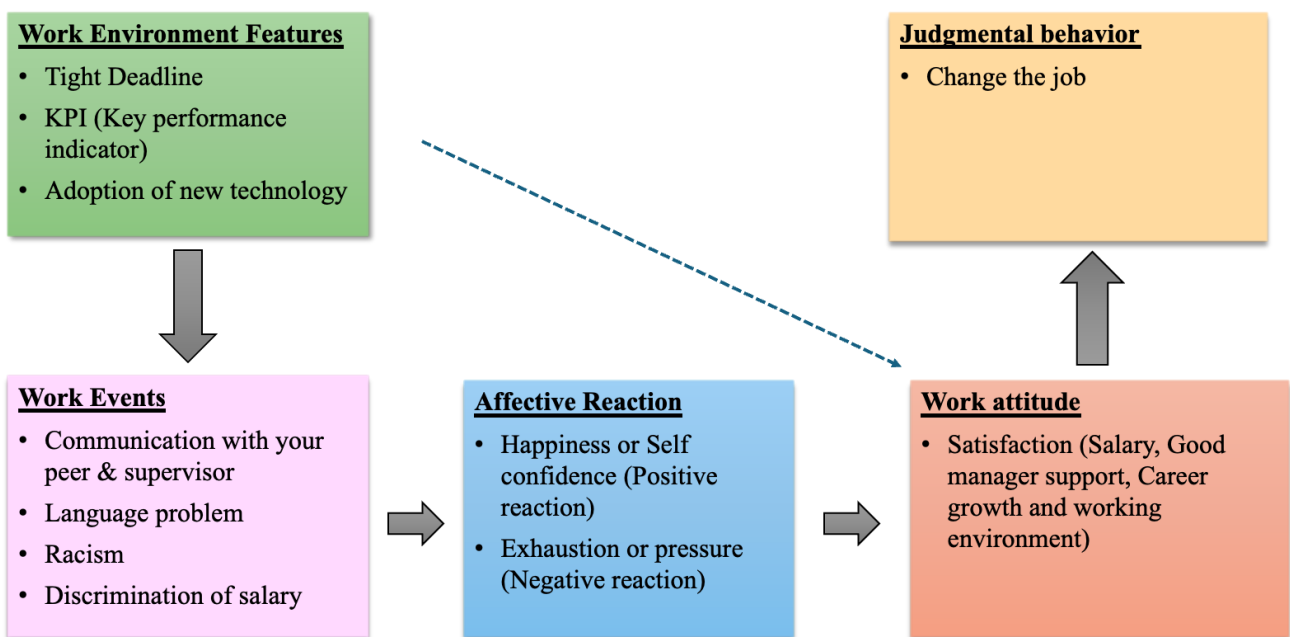


Figure 10: Working population's environment features, events and reactions, and work attitudes and their judgment behavior.

After analyzing the overall data from the survey, it is observed that the current working population, including Generation Y and early Gen Z, experiences various affective reactions, both, Positive and Negative, which directly or indirectly impact their mental and physical health. These reactions trigger employees' moods and emotions in response to factors in their work environment, such as tight deadlines, Key Performance Indicators (KPIs), and the adoption of modern technology. Additionally, they encounter daily work events like communication with peers and supervisors, language barriers, racism, and salary discrimination, all of which also trigger affective reactions. These reactions reflect work attitudes such as satisfaction with career growth, willingness to prioritize work responsibilities, workplace adjustments, and decisions regarding job changes. Figure 10 illustrates the overall work environment features, work events, affective reactions, and work attitudes, all interconnected through the Affective Events Theory (AET).

## **Conclusion**

This study examined the working conditions, environment features, work events, and affective reactions of the current working population, specifically Generation Y and early Gen Z employees. The study findings indicate that both generations experience various factors that impact their mental and physical health, directly influencing their satisfaction and happiness at work.

Both Generation Y and early Gen Z often work extended hours, frequently ranging from 10 to 12 hours per day. Generation Y generally earns more than Generation Z, leading to different spending habits. In a rapidly evolving digital era, Generation Y tends to pursue higher degrees, while Generation Z opts for certification courses to stay updated with new technologies. Both generations experience events that affect their moods and job satisfaction. Notably, half of the respondents from both generations wanted to change jobs within 1-2 months. Family support, confidence in job responsibilities, and support from managers and colleagues significantly contribute to their overall happiness. Salary satisfaction varies, with Generation Y generally happier with their compensation compared to early Gen Z. Both generations value workplace initiatives promoting physical fitness and well-being. The study highlights the importance of understanding employees' physical abilities and the impact of work conditions on their mental and physical health. Generation Y frequently engages in critical tasks daily, whereas early Gen Z does so weekly. Extended sitting, standing, or walking hours contribute to physical exhaustion, with Generation Y demonstrating higher physical stamina. Physical discomfort is shared across both generations, prompting recommendations for regular physical exercise. Despite low enrolment in wellness programs, there is a strong interest in workplace fitness initiatives.

Overall, the analysis demonstrates that Generation Y and early Gen Z employees experience a range of affective reactions influenced by tight deadlines, KPIs, new technology adoption, and daily work events such as peer communication, language barriers, racism, and salary discrimination. These reactions shape their work attitudes, including satisfaction with career growth, willingness to prioritize work responsibilities, and decisions regarding job changes. The study underscores the importance of addressing these factors to enhance employee well-being and productivity in the workplace. In the future, this paper will be used as a resource and will focus more on detailed work events and workplace environment features. This will help management design a new workplace where employees can thrive.

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# EXPLORING THE MAIN CONTRIBUTING FACTORS INFLUENCING CHILD MARRIAGE AMONG GIRLS IN MYANMAR

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## Abstract

Child marriage is a widely recognized violation of human rights that hinders a country's development and inflicts severe and long-lasting negative impacts on girls. These issues have been underreported, resulting in a lack of specific evidence for their occurrence in urban areas. Consequently, social problems are more prevalent in urban areas. This study employed the narrative approach to investigate the common reasons behind child marriage among girls in Myanmar and to propose ways to mitigate this issue, particularly in Myanmar. The objectives of the study are to explore common causes of this issue happening in Myanmar and also recommend possible measures for eradicating and eliminating child marriage in Myanmar. The initial research reveals that the primary factors influencing girls' children are cultural and social norms, a lack of awareness, and complex legal enforcement. These factors also contribute to gender inequality, which is influenced by numerous local proverbs and patriarchal beliefs. Furthermore, they are unaware of the children's rights or the legal marriage age. Most people still have limited access to information about reproductive health, family planning, and other related topics. As a result, early child marriage impacts their lives in various ways, including physical health issues, such as the inability to deliver their children, early pregnancy, feelings of loneliness, financial difficulties, interrupted education, and gender-based violence. The study will recommend addressing and eliminating these issues through robust child protection programs or projects, such as organizing unique campaigns against child marriage in coordination with stakeholders. By promoting knowledge among children, we can enhance their age-appropriate reproductive health education and integrate it into the school curriculum. A robust protection mechanism is also essential to taking action against these incidents, necessitating a solid legal system.

**Keywords:** Child Marriage, Cultural, Social Norms, Lack of Awareness, Gender-Based Violence

## Introduction

Child marriage is a widely known violation of human rights that restricts the

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development of a country and has negative impacts on girls, which are severe and long-lasting. As a result of the adverse effects, they have less access to education, early pregnancy, intimate partner violence, maternal and child mortality, elevated prevalence of sexually transmitted infection, intergenerational poverty, and the demeaning of married girls are all strongly associated with it (UNICEF, 2021). Child Marriage hurts the social, psychological, and physical for girls (Meylsa et al. (2019, p.170). Child marriage is closely linked to prevalent gender inequality, cultural norms, harmful stereotypes, and harmful practices (IUP & WHO, 2016). Child Marriage is a vital violation issue of human rights that has dark consequences for the global economy, peace and security, and the achievement of international development goals.

According to the UN General Assembly, 2017 (A/RES/71/175) adopted on December 19, 2016, child, early, and forced marriage not only perpetuates harmful practices and human rights violations but also disproportionately harms women and girls by violating, abusing, or impairing their human rights. Child marriage is a matrimonial or partnership arrangement where either one or both of the individuals involved are below the age of 18. According to research conducted by the United Nations Population Fund (UNFPA), the incidence of child marriages increases gradually until the age of 14 and then significantly from 15 to 17. Consequently, the majority of minor marriages occur during middle adolescence. As one of the Sustainable Development Goals (SDGs), the international community is committing to eliminate child marriage by 2030 (UNICEF, 2021). The SDGs involve a goal of gender equality and, as a fundamental part of it, a target to end the harmful practice of child marriage by 2030. Goal No.5 of SDG, “focused on gender equality, includes a specific target to “eliminate all harmful practices such as child, early and forced marriage and female genital mutilation.” One target of Sustainable Development Goals requires all countries to commit to act to end child marriage (World Vision, 2022).

Approximately 650 million child brides live today (Girls Not Brides, 2019). They are typically in South Asia, Africa, and Latin America. Around the world, accordingly, 12 million girls are married before the age of 18 every year (UNICEF and UNFPA, 2023). Therefore, 23 million girls whose childhood, dreams, and education are stopped every minute (ActionAid, 2023).

This paper is part of a thesis aimed at addressing child marriage in Myanmar and developing an action plan for the government and key stakeholders to tackle this problem. For this reason, this paper's objectives are to investigate the common causes of this issue in Myanmar and to recommend its eradication. By undertaking a literature review of secondary data, this paper starts with an introduction and talks about the child marriage context in Myanmar, followed by the second and third, the methodology and the conceptual framework. The fourth section expresses findings on child marriage concepts, the main contributing factors of child marriage, and the impacts, including ways for eradicating this issue, and the final section provides conclusions and ways forward. The paper concludes by exploring the strategies to address child marriage in Myanmar and suggesting further research directions.



## **Child Marriage Context in Myanmar**

Myanmar acceded to the Convention on the Rights of the Child in 1991, becoming a state party in August. After that, the domestic law was enacted in line with the UNCRC-ratified countries. According to Article 19 of CRC, governments should ensure that children are adequately cared for and protected from violence, abuse, and neglect by their parents or anyone else who looks after them. Besides, UNCRC General Comment 13 session 29 (CRC/C/GC/13) mentioned that Child Marriage is one of the harmful practices. Additionally, Myanmar ratified the Convention on the Elimination of All Discrimination against Women (CEDAW) 1997. The Myanmar State Government is fully responsible for enacting the domestic laws in line with the international treaties as a ratified state party. However, according to the prevalence rate in Myanmar, 16 percent of girls in Myanmar are married before the age of 18. Also, five percent of boys in Myanmar are married before age 18 (Ministry of Health and Sport, 2015-2016, p-55). The Ministry of Health and Sport in Myanmar conducted only one national survey.

Therefore, in Myanmar, child marriage rates are hard to track accurately due to the complex situation practices among the country's 135 recognized ethnic groups. Eighty-nine percent of Myanmar's population practices Buddhism, making it the country's predominant religion. Religious beliefs have a significant influence on attitudes toward women. Buddhists in Myanmar hold that men have a higher spiritual status than women, which has an impact on social norms, cultural practices, and the possibilities available to women and girls (JICA, 2013).

Additionally, according to the reflection on the Human Rights Report for Myanmar provided by United States country reports from 2013 to 2022, the minimum age requirement for marriage is under 18 years; however, child marriage still occurs, and there is a lack of systematic databases and other references on the ground. It is a crucial alarm to address for further prevention and protection of this issue for children's well-being in Myanmar.

In patriarchal societies, where men hold more power in child marriage, people value women staying pure and not having relationships before marriage. They believe a woman's value and goodness depend on this. If a girl does not concur with this viewpoint, her family risks losing favor and becoming unimportant. The patriarchal nature of Myanmar society, highlighted by Ashley (2016), emphasizes men as the primary breadwinners and decision-makers, with their decisions substantially influenced by religious views. This power dynamic contributes to gender inequality, reducing women's agency and inhibiting their ability to make decisions, particularly in the context of marriage.

Compounding the issue is the complexity of domestic laws addressing child marriage in Myanmar. Discrepancies in the legal age for marriage, as outlined in specially enacted laws such as the Child Rights Laws (2019) and Myanmar Customary Laws, create challenges in addressing the root causes of child marriage. Additionally, the absence of evidence-based data in academic research papers further hinders the formulation of targeted interventions. It is crucial to note that children in Myanmar can enter marriage through formal ceremonies or mutual consent without a ceremony,

contributing to the perpetuation of this issue (Ashley, 2016).

## **Methodology**

This paper utilizes a qualitative research approach, drawing on secondary data from various scholarly sources, including articles, journals, and theses from global researchers. The data includes documents from UNICEF, other United Nations entities, and INGOs, as well as reports such as the United States' Human Rights Report on Myanmar.

## **Conceptual Framework**

Depending on the findings of numerous scholars, the researcher constructs a framework. It means that the main factors leading to child marriage encompass cultural influences, socioeconomic challenges like poverty, lack of awareness, and inadequate legal systems. These issues significantly affect the well-being of girls, resulting in physical health problems, psychological challenges such as depression, anxiety, and social isolation, as well as hindrances to education and economic stability. Thus, a comprehensive approach is crucial to addressing the root causes of these problems.

## **Findings and Analysis**

### **Reflecting on Child Marriage Issues Based on a Literature Review**

This section aims to provide a deeper understanding of the concept of child marriage, which is a critical issue that needs to be addressed and eliminated from society. In many societies, child marriage has its roots in socio-cultural norms and religious beliefs. However, the connections between faith and child marriage are complicated and rely on the community's beliefs (Regina & Quentin, 2015, p.44). Susan et al. (2019, p.93) argued why early marriage rates are still high despite rules that are becoming more and more restrictive and possibly harm one's wellness. Examining the causes and consequences of early marriage can help build support for policies toward eliminating the practice (Azza, 2015, p.67). Furthermore, the leading causes of child marriage and its impact on the well-being of the girl's infant, particularly their biological, social, and psychological well-being (Meylsa et al., 2019, p. 171).

### **Definition of Child:**

According to the United Nations Convention on the Rights of the Child, Article 1 of 1989, a human being below the age of 18 is considered a child. Myanmar was also the state that joined the UNCRC in 1991. Therefore, according to domestic law, Child Rights Law, 2019, Session (3, b, unofficial translation) mentions that a child means a person who has not attained the age of 18 years.

### **Definition of Child Marriage:**

**Child Marriage:** UNICEF and UNFPA define any official or informal union

between a person under the age of eighteen and an adult or another child is referred to as child marriage. By this definition, marriages entered into by people under the age of eighteen should also be considered child marriages, early marriages, and forced marriages (Ashley, 2016). Besides, according to the UN Assembly adoption of 71/75 Child, Early and Forced Marriage resolution (2016), realizing that CEFM is damaging customs that violate, abuse, or degrade human rights and that they are connected to and support other detrimental customs and human rights breaches that disproportionately hurt women and girls, for this study, the term “child marriage” will be used where at least one party is under eighteen years. The *71/175 resolution aims* to draw attention to the problem of child marriage around the world. Despite the increasing awareness, there has been no decline in the worldwide rate of child marriages (Renata, 2018, p-414).

### **Contributing Factors of Early Child Marriage**

According to the IPU and WHO 2016, child marriage is influenced by several complex and interdependent elements firmly rooted in social, economic, and cultural contexts. Gender inequality, poverty, insecurity during war and conflict, and changes in conditions such as emergencies are all critical causes. Therefore, this issue is linked to challenging global development efforts such as including disruption of education, separation from family, domestic violence, early sexual activity, and health-related risks allied with child-bearing (Buzome, Ugwu, & Momoh, 2019, p.52). Conversely, the risk diminishes when there is a desire for planned pregnancies, higher levels of education, positive parental attitudes, urban residence, and prior employment before marriage (Meylsa et al., 2019, p.177).

### ***Cultural and Social Norms***

Gideon (2021) reflected on cultural factors, including the fear of a girl child remaining unmarried and having cultural beliefs. Most child marriage issues that a young girl married to an adult man (Buzome, Ugwu & Momoh, 2019, p-52). According to Ashley (2016), this is influenced by the belief that girls and boys are mature enough to enter into marriage during puberty. One of the scholars, Soe (2020), points out that “Thamee Kanyar, Akar Malint Say Nat” means that girls and women should marry early to be better for their lives. This proverb originated in Myanmar.

Myanmar is characterized by a patriarchal culture: i.e., man is the main bread-earner and decision-maker (Ashley, 2016). Therefore, the existing diverse ethnic and religious driving factors are happening to child marriage. Thus, most women and girls have fewer positions in their households, communities, and society. They are allocated roles as spouses, caregivers, and mothers within their households. It impacts traditional and tribal norms and practices, which are connected to the patriarchal structure of the family. As a result, marriage is the only option for the girl's future in the Asia-Pacific region (Elisa et al., (2015, p. 24).

Myanmar has positioned a male-preference society. Thus, the role young boys play a role in child marriage because boys have to initiate contact, and it is traditionally

unacceptable for girls to pursue boys in most cases. Hence, boys have numerous reasons to marry young and few to wait because having a woman lessens their burden and raises their social standing.

### ***Poverty***

Economic factors, i.e., poverty, social factors such as peer pressure, environment unrestricted freedom, and ignorance, perpetuate this issue. Among them, poverty is also a significant factor underlying causes of this issue (Elisa et al., (2015, p. 24). Consequently, in low-income households, children, particularly girls, can be seen as a financial burden, with early marriage seen as an instant remedy (IUP & WHO, 2016). Myanmar is still a low-income country in South-East Asia. Poverty and inequality are pervasive (Ashley, 2016). One in four people in Myanmar are poor (World Bank, 2019). Urban areas have seen a higher rate of poverty reduction than rural ones, but both have seen a noticeable decline. Heads of poor households are more likely to be uneducated or not at all. Besides, Myanmar is included among the middle-income countries. Subsequently, 86 percent of the child marriage burden is found in these countries (UNICEF, 2021).

### ***Gender Inequality***

Myanmar also has a male-preference culture, as mentioned above. Therefore, gender inequality and belief are discrimination between men and women, including between boys and girls. These are the leading causes of child marriage (Girls Not Brides, n.d.). A girl's voice and power enable her to make life decisions without fear of retaliation or violence. Thus, the lack of control and voice is related to gender inequality (Jennifer et al., 2015. p.13). On the other side, the leading causes have occurred, such as gender norms, adolescent pregnancy, trafficking, political instability, armed conflict, and displacement, including violence against women and girls. A qualitative study by UNICEF across five regions revealed that men and women believed that men should be the family's primary source of income. Ashley (2016) pointed out a couple of vast causes of such migration and the role of boys. Consequently, they proved that due to a lack of involvement in decision-making, a lack of control over home finances, time limits, more limited access to information and health services, poorer health, and lower self-confidence and self-esteem than those married later.

### ***Lack of Awareness***

Santosh (2016, p.700) highlighted that child marriage difficulties are exacerbated by a lack of awareness, limited access to media, insufficient government understanding, and the perception of girls as expendable resources due to the fear of remaining unmarried. Child marriage is more prevalent in impoverished nations (Jennifer et al., 2015. p.12). Additionally, they demonstrate that household spending on education does not favor girls' education due to prevailing societal customs.

### ***Complicated Legal Framework***

Most scholars recognize that a lack of legal enforcement is one of the leading causes of this issue in its protection. Myanmar provided legal provisions guaranteeing non-discrimination of any kind as to race, color, sex, language, religion, political or other opinions, national or social origin, poverty, birth, or other status. However, Myanmar's Domestic laws and regulations are very complex and complicated regarding the prevention of child marriage. Myanmar has a legal system is a hybrid of common law and customary law. Marriage is governed by customary and legislative laws (IUP & WHO, 2016). Myanmar has three customary/religious frameworks: Buddhist marriage, the Christian Marriage Act, and the Myanmar Muslim Dissolution of Marriage Act. Special Marriage Act, the legal age of marriage for girls is 14 years, and 18 years for boys. Christian Marriage Act, the legal age of marriage is 13 years for girls and 16 years for boys.

In addition, the CRC and CEDAW committees restated their recommendations for State Parties to alter or enact legislation that establishes 18 as the legal marriage age. Establishing an 18-year-old minimum marriage age for both boys and girls is the first step in ending this destructive tradition (CEDAW GR31 and CRC GM18, 2014) (CRC/C/MMR/CO/3-4). In 2019, Pyidaungsu Hluttaw enacted the Child Rights Law on 23 July 2019 as a Myanmar version without an English version. In a new law, session no 3, Child means a person who has yet to attain the age of 18 years, and also, session 23: The age of marriage for both male and female shall be 18 years. (Child Rights Law, 2019, unofficial translation). However, the United States Human Rights Country Report for Myanmar figured out that Myanmar law specified the different minimum age for marriage depending on religion and gender (US, 2022). Currently, females can marry younger than boys in 59 percent of countries around the globe as long as their parents agree. Based on the data, in 30 countries worldwide, girls may not have legal protection against marriage before the age of 18 due to exceptions allowed under customary and religious laws (Megan et al., 2017).

### **Effects of Child Marriage on Girls**

There are many adverse effects of child marriage issues that threaten the short and long-term children's development, especially children's well-being, due to its causes. Therefore, children face challenges with discontinuance of education, early severance of family bonds, domestic violence, early sexual activity, and child-bearing related to a health condition (Buzome, Ugwu & Momoh, 2019, p-52). The poorer the health and educational performance, the higher the chance of violence and abuse, prolonged poverty, and missed opportunities for empowerment are some of the primary consequences of marrying too young (IUP & WHO, 2016).

#### ***Health Condition***

Early child marriage is the primary cause of the issue with a girl child's physical and mental health. They experienced increased rates of hopelessness, loneliness, starvation, and maternal death (Jennifer et al., 2015. p.16). Marriage and sexual activity help determine the extent to which women are exposed to the risk of pregnancy. The

timing and circumstances of marriage and sexual activity have reflective consequences for women's and men's lives (Ministry of Health and Support, 2015-2016).

### ***Lack of Education***

In Myanmar, when they marry and assume the role of a wife, adolescent females frequently drop out since they are expected to take care of the home, their husband, kids, and extended relatives (Ashley, 2016). Therefore, most girls drop out of school after finishing, even after completing their primary or basic education (Santosh, 2016, p.701). According to the report of UNICEF (2016), the school dropout rate of married girls is more than that of unmarried girls in both urban and rural areas.

### ***Gender-Based Violence***

Gideon (2021) expressed that early marriages also raise the risk of divorce and gender-based violence (Cultural Implications) because young girls often lack maturity. Ashley (2016) supported that those in CEFM marriages are more likely than their peers who marry later to experience domestic violence. Young brides are both likely to experience domestic violence and less likely to disclose it (Kim, 2017). If the love and partnership between husband and wife break down, this can lead to betrayal or abuse (Susan et al., 2019, p.97).

### ***Economic Dependency and Inability to Make Decisions***

Consequently, compared to those who marry later, child brides frequently have less influence over home finances, less time for personal development, less access to information and healthcare, poorer health, and lower levels of self-confidence and self-esteem (Jennifer et al., 2015, p.17). Therefore, child marriage and forced marriage are frequently put together because they both involve a lack of agency (Kim, 2017). In general, men make up the majority of those who make money and decision-makers in Myanmar culture, which is patriarchal (Ashley, 2016).

## **Ways for Eradicating Child Marriage Issue**

UNFPA is launching a campaign in the Asia Pacific Region to raise awareness about gender-based violence, assist midwives in learning new skills, engage in discussions with community members and leaders about their beliefs, and collaborate on developing strategies to combat harmful behaviors and beliefs (UNFPA, 2022). According to the report of World Vision (2022), one of the issues addressed in this campaign is eliminating child marriage, requiring immediate action. Therefore, World Vision (WV) implemented the "End Child Marriage" campaign in collaboration with community members, faith leaders, and children to challenge prevailing social norms. Additionally, parents and caregivers received training on child rights and child protection, with a specific focus on ending violence against children (World Vision, 2022).

Children are provided with life skills training to empower them to make informed

decisions and are educated about physical and mental health through appropriate means. Furthermore, there is an emphasis on promoting girls' education, as it can serve as a preventive measure against child marriage. Additionally, at-risk children and adolescents can report incidents and seek support through an information technology-supported channel (Rajeev et al., 2018, p. 393). Furthermore, one of the scholars, Sumitra (2020), emphasized that the child's best interests are paramount. In Myanmar, one of the CRC principles, the child, has been wholly neglected, particularly for girls living in remote areas. Moreover, this represents a significant gap in addressing cases and preventing further issues in the future. Therefore, the government should collectively collaborate with respective agencies, organizations, and communities to address this issue (Sumitra, 2020).

### **Conclusion and Way Forward**

Child marriage is a global problem, explored here in the context of Myanmar. Despite the country's ratification of the CRC, implementation challenges lead to weak accountability. Domestic laws are inconsistent, and there is no dedicated database for child protection. Services are hindered on the ground, and coverage remains limited despite INGOs/NGOs' training efforts. Based on these facts, this research recommends addressing and eliminating these issues through robust child protection programs or projects, such as organizing unique campaigns against child marriage in coordination with stakeholders. Implementing a women's empowerment program or project through coordination with representative formal and informal organizations is necessary to combat patriarchy and cultural norms and achieve gender equality. By promoting knowledge among children, we can enhance their age-appropriate reproductive health education and integrate it into the school curriculum. A robust protection mechanism is also required to act against these incidents, necessitating a solid legal system. Since there is limited research on child marriages in Myanmar, further research is needed to understand the underlying issues around child marriages, especially concerning females under 18 years old.

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# UNLOCKING THE POLITICAL DYNAMICS OF SAGAING IN MYANMAR'S UPRISING

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## **Abstract**

The research addresses the developing process of political institutions and resistance forces in the Sagaing region, exploring the pre- and post-coup. This study investigates the evolution of the revolutionary forces in Sagaing that emerged from a non-violent movement into a centre of armed conflicts. It examines the role of political neutrality and the impact of the political process, discussing the concept of federalism or federal units in times of conflict. As Sagaing was recognized as a historical and cultural cornerstone and a crucial part of Bamar regions in the Spring Revolution, exploring the new aspects of resilience and political dynamics will help us to understand the relationship between regional forces and power relations, which influence the armed resistance in Myanmar. In this research, the political evolution of the Sagaing explores the contribution of the Sagaing people by measuring the difference before and after the military coup. This study examines how the Sagaing region became a centre of resilience and resistance as well as the victimized region amid the political crisis, internal conflicts, and the atrocities of the military. This study looks at the commitment of the Sagaing people to the People's Revolution and the discussion of federalism. The significant transformation of the Sagaing region is due to the influence of historical, cultural, economic, and geopolitical factors, which have impacted the region's political evolution. The consequences are due to pivotal changes in the military institution, as perceived by the public, in response to armed struggles. In addition, there have been studies on resistance movements, conflicts, federalism, and armed struggles that mainly focus on the context of Myanmar or ethnic regions, except the political landscape of Sagaing. This study aims to fill this gap by examining the establishment of political institutions, armed resistance forces, and the federal discussion of the Sagaing region.

**Keywords:** Resistance movement, armed revolution, political institution, federalism, revolutionary forces, Myanmar

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## Introduction

The birth of the Spring Revolution in Myanmar was due to the military actions on the arrestment of the civilian governments and the announcement of a state of emergency by refusing the 2020 election results (Human Rights Watch, 2021). The general population participated in peaceful protests against the military regime across the country in several non-violent protests to contest the administration of the military's bureaucracy (Hein, 2022). The early protest of non-violent resistance united the solidarity of mainland Myanmar and the mountainous ethnic regions during the People's Revolution (Fishbein & Hlaing, 2021). The Sagaing Region, as a part of the Anyar Region or upper Myanmar, allowed the isolation condition of the civil wars compared to the ethnic states and not much experience of armed uprising. The massacres, atrocities, and arson attacks of the military regime pushed the people from the Sagaing Region to foster the focal point of the armed revolution against the military as being the stronghold of the resistance region in mainland Burma (Thit, 2022).

Sagaing Division in Myanmar was a historical location such as Hanlin for the Pyu city-states in the ancient periods before the beginning of the Bagan Dynasty. Pyu people inhabited the flat areas between the confluence of the Irrawaddy and Chindwin rivers, particularly the arid region of Upper Burma (Aung-Thwin, 2017). After three Anglo-Burmese Wars between the Konbaung Dynasty and the British Empire over six decades, Mandalay Palace failed under the British. King Thibaw was removed from the palace and put into exile in 1885. The British partially controlled the whole country because of the solid military resistance in Northern Burma (Sagaing regions), such as Katha, Ye-U, Shwe Bo, and the upper Chindwin River. The resistance leaders controlled most areas of upper Myanmar around 1890 (Aung-Thwin, 1985). The Sagaing regions played a crucial role in anti-colonial movements during the colonial era, especially under the Pacification of Burma. During the colonial period, the Sagaing sustained resilience and resistance against the colony by keeping the spirit of a free Burma with historical, cultural, and religious beliefs until 1910 (Ashton, 1989). By exploring history, public participation in the Sagaing resistance describes the strong faith in the revolution to remove the military from the country, which is firmly rooted in their cultural practices, historical facts, and religious values. In the past, the unwavering faith of the Sagaing region has demonstrated the desire for freedom, self-governance, and independence from the hands of the colonial (Ashton, 1989).

In the period of the 8888 uprising, Sagaing town along the Irrawaddy River experienced a tragic, hidden history, which is known as the Sagaing Massacre. The military government used a brutal crackdown by firing bullets at the protestors and killing around three hundred people (Irrawaddy, 2010). The military rulers promoted misleading propaganda and false hopes to the civilians for the extension of their power. In other words, the administration of the military purposefully created unstable conditions, which allowed them to persuade the necessary role of the military by taking advantage of poor situations and uneducated status and driving the country with fear (Mong, 2024).

Sagaing region is northwest of Myanmar and is the second largest division after the Shan state. Geographically, Sagaing shares the international borders with Manipur state and Nagaland of India and connects with Chin, Kachin, Shan, Mandalay, and Magway. Most

Burmese live in Sagaing, but Kachin, Shan, Chin, and Naga ethnic minorities live there. As the Chindwin and Irrawaddy Rivers flow through the Sagaing regions, the majority of occupation and economy depend on the agriculture, forestry, and fishery sectors because of the wealthiest natural forest, lands, and resources among Burma divisions. Thus, the Sagaing region is known for the teak basket of Myanmar (Treue et al., 2016). However, during the military era of the Burma Socialist Programme Party (BSPP), State Law and Order Restoration Council (SLORC), and State Peace and Development Council (SPDC), the forest degradation was caused by the overlogging and informal extraction or exploitation of timber and fuelwood for the trade and export markets, which was under the military power (Banikoi et al., 2019).

## **Methodology**

The research was a qualitative exploratory study using primary data and semi-structural interviews to understand the revolutionary establishment of the political landscape and armed revolution in Sagaing Regions. The study focused on the experiences and emergence of resistance forces in the pre- and post-coup conflicts by focusing on the approaches and developing status of the resistance movement. The primary data collection process was only voice calls through semi-structured questions and in-depth interviews with leaders of various resistance forces in Sagaing. The sampling size of the key participants was seven people. The interview with diverse participants assisted in identifying the regional evolution of solidarity, the patterns of the political process, and the dynamic changes after three years of the coup.

## **Findings and Discussion**

Sagaing holds a critical position for the rebellion forces and the military, including economics, politics, and warfare. The crucial geography of Sagaing is directly related to the independence of Upper Myanmar and the People's Revolution. If the military loses control of this vital geopolitical location, it will put negative pressure on political power and warfare conditions. The brutal repression was to create the consequences as the example of the resistance against the coup and military action. All the key informants acknowledged the current crisis of the Sagaing region in terms of economic, political, and armed struggles and the connectivity to roam the EAO regions.

## **Sagaing Under Siege**

A significant transformation of the region is the impact of historical, cultural, economic, and geopolitical factors that contribute to the social and political evolution of the public. The military creates limited opportunities in traditional agricultural sectors to maintain power by controlling the introductory class only. This dynamic in the data is a shred of evidence, in which the participants highlight that eighty per cent of the military troop recruitment was from the Anyar region (Sagaing, Mandalay, Magway) due to the impact of economic restrictions. The dependence and recruiting practice of the military in these regions underscore the socioeconomic struggle of the local people, driving many to become part of the military institutions for better prospects. Another theme is that the recruitment and economic struggle increased the military's influence and the propaganda of ultranationalist groups on people's

perceptions. Another challenge of ultra-nationalist groups obstructed the truth among the civilians and communities of the resistance forces.

The jade mining in the northern and Tamu township in the northwestern part of Sagaing serves as the crucial economic market zone for the military leaders, including the production of agricultural products. The geographic position of Sagaing became the primary target due to the entrance to the central plains, connecting to the lower regions. The research spotlights the significant struggle of the current crisis in the Sagaing, which is the connectivity with EAO regions as a central concern regarding economic, political, and armed conflicts. It allows a strong sense of the moral values in justice. Sagaing people show their right mindset with resistance and resilience against military dictators. The strategic position of Sagaing is a focal point of its economic and political aspects for both the military army and revolutionary forces.

The military's dominance in Sagaing shifted to the democratic system under the NLD government in terms of freedom, development, and opportunities. The influence of the civilian government improved the political culture, civic engagement, and youth participation in politics. The observation provides that the empowerment of education, political awareness, and youth networks are the reflections of reaching the resistance force after the coup. The tiny taste of freedom drove the revolutionary forces to lead the armed resistance. Interestingly, voting in the elections indicates a new perspective of power competition between pro-democracy and ultranationalist groups.

Moreover, the winning results of the general elections are the will of the Sagaing people for freedom and standing to fight for liberty after the military coup. Exploring the historical evidence of Sagaing provides the position of the Sagaing region in the ongoing political crisis in Myanmar. It highlights its critical role in the future fight for federal democracy.

### **The Struggles of Sagaing in the Spring Revolution, Fighting for the Future**

In the post-coup of Myanmar, the political landscape in Sagaing transformed from peaceful protests to armed resistance, which never existed in the region. The nationwide non-violent movements are due to the arrestment of the civilian government, seizing the country's power with unconstitutional acts, and rejecting the general elections' results. This study finds that Sagaing was the birthplace of the armed revolution in the People's Revolution throughout the evolution of the unarmed movements to the armed resistance. Moreover, the brutal crackdowns on peaceful protests led to the emergence of political institutions and armed groups going to the ethnic region for military training. The brutality of the military fueled public outrage in the Sagaing region as the significance of the shift to armed revolution, where the absence of pre-existing armed forces, unlike other parts of ethnic areas.

The anger of the Sagaing people poured as the stronghold of resistance in the country when the military regime committed atrocities and burned entire villages. Shared experiences of atrocities have united the support for the armed revolution and the establishment of political institutions. Under the hardship of humanitarian crises and armed conflicts, the commitment of the Sagaing people survives with their sacrifices in the revolutionary movement. However, economic and financial struggles have become a danger to human security, and basic needs are

scarce, including the consequences of military raids. The consistency of public support in maintaining the resistance indicated the lack of legitimacy of the military. The dependency on air power shows the loss of regional control in the Sagaing. The continual conflicts in Sagaing created the hardship of daily life survival due to the destruction of whole villages, forced displacements, and limitation of transportation and communication. It clearly shows that the loss of life and property is the consequence of the armed conflicts in the revolutionary movement.

Another perspective on the internal conflicts among the revolutionary forces identifies the various forces within the regions and the necessity of addressing the unity against the military. During the three years of the resistance movement in Sagaing, different institutions emerged, such as the educational, social, political, administrative, and armed groups. The support of the public is still high for the resistance as the opposition, but there are also crucial concerns among the diverse forces. Under the same revolution, the resistance forces lack cohesion or agreements, leading to internal conflicts, power struggles, and self-interest within specific groups. It features the fact that the future freedom of the Sagaing region requires having a clear vision, chain of command, codes of conduct, and cohesion as a harmonious coalition under one leadership.

There is a hint of hope for federalism beyond the current conflicts. The concept of federalism increases the positive momentum as a preferred political structure for the future of the Sagaing Region. According to this finding, the Sagaing Region has two different discussions of federalism regarding regional representation. The research highlights the emergence of federalism in the political discourse of the Sagaing Region due to new initiatives like the Sagaing Federal Unit Hluttaw and the Sagaing Federal Council (Sagaing Forum). These federal discussions display the visionary approach to future governance, but the existence of various forces in Sagaing and internal conflicts are waiting to be solved immediately. The federal dialogue in the Sagaing Region is the political process aligned with the Spring Revolution. As a federal unit, Sagaing is heading the federal journey among the other sites of mainland Myanmar.

The regional developments in Sagaing illustrate a dynamic process of political transformation and armed resistance. The birth of federal democratic discussions indicates the resilience and strategic foresight of the Sagaing people. The analysis reveals the relationship between oppression, resistance, and resilience through the transitional process of the Sagaing, the evolution of political dynamics, and the establishment of federal discussion within the political institutions or revolutionary forces.

## **Conclusion**

This research highlights how the Spring Revolution significantly transformed the region by giving rise to new political institutions and armed resistance forces. The emergence of political platforms like the Sagaing Federal Council found positive potential for the future. The bottom-up approach in the Bamar-majority region is a new strategy during the revolution. Exploring the Sagaing enhances the developing state of the political process in terms of public support, commitment, resilience, and resistance movement. The struggle for freedom and a

federal future in Sagaing could represent a beacon of hope for the Spring Revolution and Myanmar. However, the internal conflicts and a unified vision among the revolutionary forces for primary and priority aims are urgent to address in Sagaing. Without solving the internal challenge, the current situation seems to be more of a struggle instead of existing good chance during and beyond the people's revolution. The main argument of the research is that the slow process of solving internal conflicts shows the carefulness of the resistance groups in the region before stepping into the next one. The improvement of political movements and resistance in Sagaing is crystal clear, but the immediate action demands the right solution in the revolution. However, the resistance forces disagree on some points as a part of the political process and revolutionary movement, but understanding the establishment of Sagaing Federal Councils and Sagaing Federal Unit Hluttaw shows to solve the current issues and beyond the Spring Revolutions. This study attempts to deliver an extensive comprehension of the shaping situation of the Spring Revolution on the political climate of the Sagaing Region.



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# **Gender and Environment in Conflict Area: A Case Study of Displaced Women in Tanintharyi Region, Myanmar**

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## **Abstract**

Climate change and armed conflict are impacting communities globally. In Myanmar, the Tanintharyi Region is a significant example of both crises. Displaced women in conflict areas face unique hardships compounded by environmental degradation and gender inequalities. This study examines women's experiences engaging in ecological conservation during conflict and displacement in the Tanintharyi region. Through qualitative methods, including interviews and participant observation, it explores their current situation, experience, coping strategies, roles, and contributions to environmental preservation. Key findings highlight the resilience and empowerment of women in adverse circumstances, emphasizing their essential roles in sustaining communities and ecosystems. This research contributes to academic discussions by addressing gender dynamics in forced displacement and environmental conflict and informing initiatives for gender equality and empowerment. It highlighted the specific roles and contributions of women working in the environment in the Tanintharyi Region. It also explores how women adapt and continue to participate in environmental conservation amidst conflict and displacement, thereby contributing to bridging the existing knowledge gap on the gendered aspects of environmental issues in the Tanintharyi Region. This research offers insights crucial for policymakers, practitioners, and scholars striving to address the multifaceted challenges facing displaced women in conflict-affected regions.

**Keywords:** Gender, Conflict, Displacement, Tanintharyi Region, Myanmar, Climate Change

## **Introduction**

The intersection of gender, forced displacement, and environmental conservation is a critical yet underexplored area of study, particularly in conflict-affected regions. Tanintharyi Region, rich in natural resources and biodiversity, has faced significant environmental degradation and socio-political turmoil, especially after the 2021 military coup. This conflict has added to the

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existing vulnerabilities and created new challenges, especially for women, who play crucial roles in their households and community-level environmental conservation. Myanmar is second among 183 countries in the 2021 Global Climate Risk Index as one of the most susceptible to extreme weather events (Kyed & Chambers, 2021). The country experiences frequent heatwaves, floods, cyclones, droughts, and rising sea levels that affect agriculture productivity, food security, and land availability. This presents a significant risk to both livelihoods and sustainable development efforts.

Moreover, the recent military coup has led to destructive extractive activities and war economics, which used natural resource extraction and increased the vulnerabilities of communities. The effects of the conflict are making it harder for the locals to adapt to climate change and weakening the efforts of the civic society to protect the environment. Therefore, it is difficult to cope with and adapt to climate change because of prolonged periods of authoritarian rule. It continued to cause land disputes in agricultural areas, and ongoing armed conflicts, which worsened further after the coup. Women in this region, traditionally responsible for ensuring family well-being and productivity in agriculture, face increased challenges within this context.

This paper explores the current situation of women engaged in environmental conservation in Tanintharyi during conflict times, their coping strategies, and gender dynamics that influence their work. Furthermore, during times of crisis, these women demonstrate how they empower themselves and their communities despite the challenges they experience. Therefore, this study provides a nuanced understanding of the gendered dimensions of environmental governance in conflict-affected areas. Through qualitative data collected via interviews and observations facilitated by the TRIP NET organization, this research sheds light on the resilience and agency of women in Tanintharyi. The findings underscore the importance of gender-sensitive policies and programs that recognize women's vital roles in environmental conservation while promoting gender equality and sustainable development.

## **Methodology**

The research employed a case-study qualitative approach, using primary and secondary data collection. There were seven participants: four women and three men from the Tanintharyi Region were interviewed in May 2024. Due to the instability of the ongoing conflict in Tanintharyi, data were collected through interviews with displaced individuals in Ratchaburi Province, Thailand, facilitated by the TRIP NET organization. Therefore, participants were selected using a purposive sampling technique to ensure diverse representation, including age, socio-economic background, and experiences with displacement and environmental challenges, with the support of the TRIP NET organization. The secondary data was reviewed from various literature sources to document gender, conflict, displacement, and environment. It included journal articles, academic research papers, edited books and book sections, and project reports. The databases were used as references for this research. Throughout the fieldwork, the researcher also applied gender analysis and a gender approach.

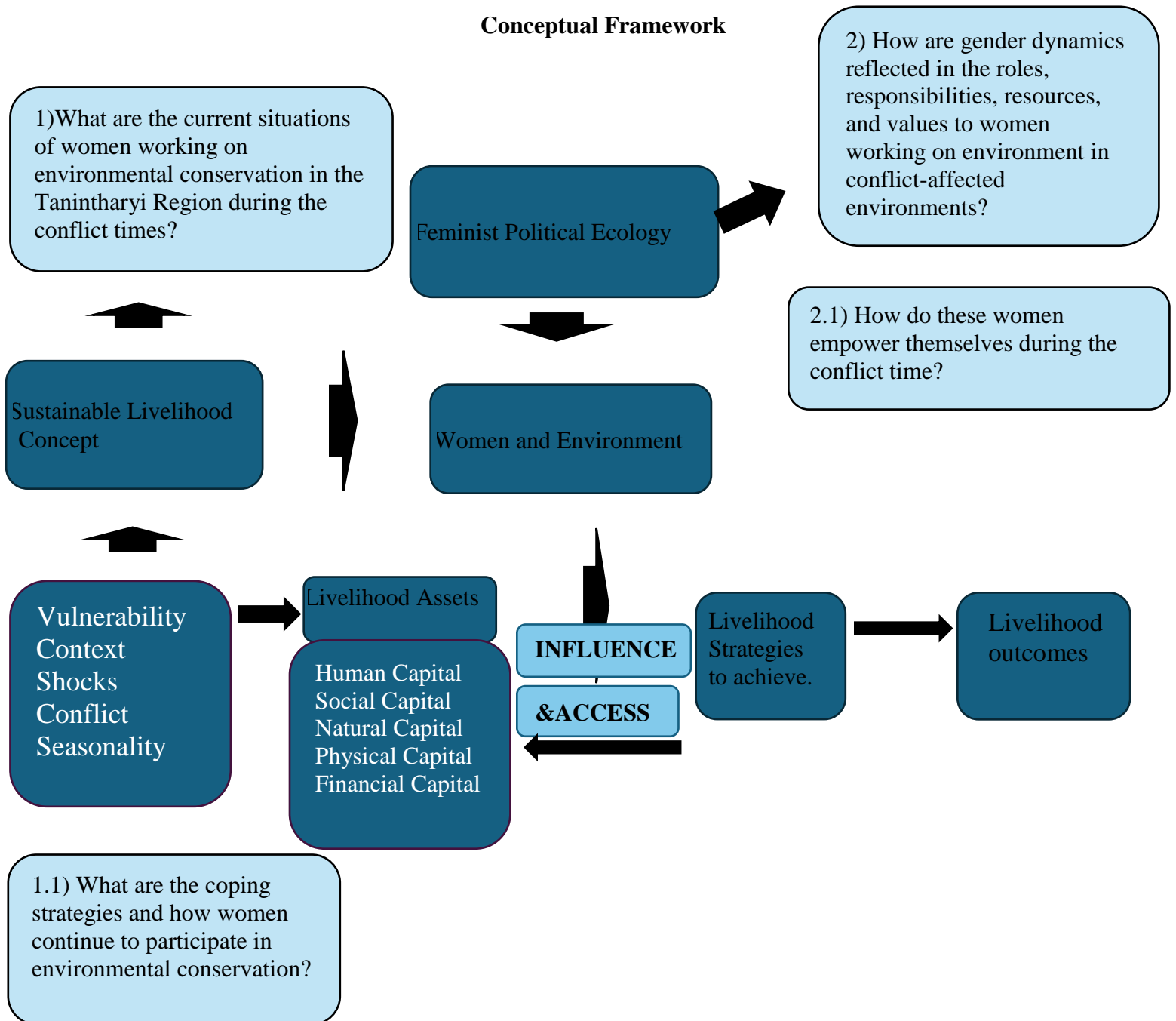
## **Data Analysis**

The data analysis involved thematic coding of interview transcripts to identify key themes and patterns. Thematic analysis was utilized to investigate the gender dynamics, coping strategies, and empowerment mechanisms of women involved in environmental conservation. The feminist political ecology framework was used for analysis, emphasizing the importance of understanding gendered power dynamics and the sociopolitical context of environmental governance. The content analysis went through documents, reports, journals, and policies to understand the broader institutional context. The data collected was analyzed based on the research objectives, conceptual framework, and previous studies.

## **Area of Study**

The research is in the Tanintharyi Region, in the southern part of Myanmar, which is significant for its long coastal stretch from the Andaman Sea and borders Thailand to the east and Mon State to the south and north. Myanmar shares a 1500-mile border with Thailand. The region was once called Tenasserim Division and then as the region. The region is divided into three districts: Dawei, Myeik, and Kawthaung, each with ten townships and 347 wards. Since the 1980s, Myanmar migrants have crossed the border to Thailand in search of safety from human rights violations, mostly Karen ethnic groups have lived near the border. The Tanintharyi region has a population of 1,408,401 (Department of Population, Ministry of Immigration and Population, 2015). Most of the ethnic groups are Bamar, with additional ethnic groups including Karen, Mon, and coastal Moken people. People in the coastal areas depend on fishing resources, while many isolated upland areas rely on subsistence farming. Being closer to Thailand makes migration an attractive option for those seeking employment opportunities. This is a significant pull factor for many households. Under British administration, it covered more territory, including sections of modern-day Mon, Kayin State, and the Bago Region. The Tanintharyi have not historically seen the same amount of ethnic armed conflict as other regions in Myanmar. However, it is where the Karen National Union (KNU) and the New Mon State Party (NMSP) operate. The area has a history of people being forced to leave because of both violence and land being taken away from them. The issues of land seizure, arbitrary taxation, and displacement are prominent. These obstacles, combined with commercial investment projects, have influenced the local community, resulting in complex land rights disputes and preventing refugees and internally displaced persons

(IDPs) from returning. After the 2021 coup, the region has been the scene of many clashes between the Myanmar Army and various resistance groups. This has caused more people to be displaced during the conflict.



**Figure 1.0 Conceptual Framework**

## **Feminist political ecology**

The feminist political ecology (FPE) concept in this research is an analytical framework that integrates feminist theory with political ecology to explore how gender, alongside other identities such as class, race, and ethnicity, influences access to and control over natural resources. FPE emphasized that environmental issues are not gender-neutral but are deeply intertwined with socio-political contexts, where power relations and inequalities are instrumental in shaping environmental practices and policies (Rocheleau et al., 1996). By focusing on the experiences and contributions of women, FPE seeks to uncover how power and inequality manifest in environmental practices and policies. In the context of the Tanintharyi Region, FPE provides a valuable lens for understanding how conflict and displacement have impacted women's roles in environmental conservation. It highlights the importance of considering women's knowledge, agency, and leadership in managing natural resources. By applying this framework, the study aims to reveal the gendered dimensions of environmental governance and to develop more inclusive and equitable approaches to conservation that recognize women's contributions.

Elmhirst (2011) views that Feminist Political Ecology (FPE) understands gender as a critical variable in shaping resource access and control, interacting with class, caste, race, culture, and ethnicity to shape processes of ecologically viable livelihoods, and the prospects of any community for 'sustainable development'. It further explores the impact of economic reforms and increased mobility on natural resource management and environmental governance, especially in terms of gendered aspects. Understanding women's contributions to environmental conservation in Myanmar directly depends on their access to resources and level of environmental knowledge, which are gendered. Elmhirst (2011) noted that a framework for comprehending the dynamics of a geographical and cultural context such as Myanmar can be found in the intricacies of gender-environment interactions.

Resurrección and Elmhirst (2012), in "Gender and Natural Resource Management: Livelihoods, Mobility, and Interventions," described that due to globalization and the expansion of the market in developing countries, the mobility of people from one country to another and their livelihoods have become increasingly multi-local, transnational and across the boundaries of localities. The relationship between migration, multi-local livelihoods, and natural resource

management is complex. We need to take a contextual approach that distinguishes between migration as a response to crises and livelihood failure and migration as an accumulation strategy for social and economic remittances. The author noted a lack of examination of the role of gender in the relationship between migration, multi-local livelihoods, and natural resource management. In the past, the focus was more on deconstructing "community" in natural resource management. However, further investigation is needed to understand the link between gender and natural resource management in a multi-local setting, despite the understanding that migratory patterns and processes are intrinsically gendered within multi-local lives.

Moreover, women play a crucial role in livelihood diversification, including reproduction, production, and income generation. They also play a significant role in migration and, in the case of male migration, mediate its effects on families and communities through their reproductive activities and the feminization of agriculture. An understanding of gender is vital for understanding the connections between people and the environment, and for sustainable natural resource management. This is evident in the impacts of men's and women's different involvement in migration and multi-local livelihoods. In the context of Myanmar, due to conflict, people are forced to migrate and establish multiple livelihoods in various locations, both within the country and across its borders. The study emphasizes the importance of considering gender dynamics in understanding the relationship between migration, multi-local livelihoods, and natural resource management, particularly in conflict-affected areas like Myanmar.

### **Intersectionality: Women and the Environment**

FPE recognizes intersectionality, meaning that a woman's experiences with the environment are influenced by factors such as ethnicity, socioeconomic status, and age. This approach is essential for developing comprehensive interventions that address the diverse needs of women in conflict-affected areas. Studies highlight how gender, caste, class, and environmental interactions are produced through everyday practices, impacting women's access to resources and their roles in environmental conservation. Various studies have examined these intersections, revealing complex gender dynamics. For instance, research by Nightingale (2011) demonstrated that in Nepal, gender and caste significantly affect access to natural resources. Similarly, Sultana

(2014) highlighted the intersectional analysis of climate change, emphasizing how gender and class dynamics shape vulnerabilities and adaptation capacities.

### **Sustainable Livelihood Approach**

Chambers and Conway (1992) described the concept of sustainable livelihood for people to be sustainable in the livelihood of the 21st century. It mentioned capabilities, means of living, food, income, and assets. The author pointed out that a livelihood is environmentally sustainable when it enhances the local assets on which livelihood depends. A socially sustainable livelihood that can cope with and recover from stress and shocks and provide for future generations. The key concepts elaborated on by the authors are the capability of people or groups to manage and direct their own lives. To achieve livelihood goals, people need skills, knowledge, and abilities to have a sustainable livelihood. Equity has been mentioned as the fair distribution of resources and opportunities, ensuring they are equally distributed to all. Moreover, it is crucial to maintain a sustainable environment by responsibly managing natural resources for the benefit of future generations.

Similarly, Kollmair and Gamper (2012) utilized the Sustainable Livelihoods Approach (SLA) to offer a comprehensive understanding of its origins, goals, and focus on enhancing the effectiveness of development cooperation. It delves into the key principles of SLA, emphasizing its focus on people-centered, holistic, dynamic, and asset-based strategies for addressing poverty and promoting development. The fundamental components of the Sustainable Livelihoods Framework are outlined, comprising vulnerability context, assets for livelihood (covering human, social, natural, and physical capital), transforming structures and processes, strategies for livelihood, and outcomes of livelihood. Each component is elaborated on to demonstrate their interrelationships and impacts on livelihoods.

In the context of Myanmar, the livelihood situation is deeply intertwined with vulnerability due to various factors such as limited access to land and resources, social and political exclusion, and the impacts of climate change. Women in Myanmar face specific challenges and vulnerabilities within the context of livelihoods, climate change, and conflict. They often have limited access to decision-making processes and resources, making it difficult for them to adapt to changing environmental conditions and secure their livelihoods. Evidence shows that women in



Myanmar are disproportionately affected by climate change due to their limited access to resources and vulnerabilities stemming from social and political exclusion. In this research, the component will mainly focus on the vulnerability context, livelihood assets, strategies for livelihood and outcomes of the current political situation and the research questions will focus on these aspects. By exploring the concept of sustainable livelihood in this research on women in Tanintharyi Region, it is crucial to examine the context of vulnerability in which they operate. This includes understanding the social, economic, and political factors that contribute to their vulnerability and limit their access to resources and opportunities.

## **Findings and Discussion**

### **Theme 1: Current situation of displaced women and their coping strategies**

According to the sustainable livelihood concept, we can see that women working in environmental conservation in the Tanintharyi Region are experiencing dual crises. These crises have not only led to physical displacement, but also to a loss of livelihood and access to resources. The displacement has disrupted their lives, leading to a significant loss of livelihood assets. The respondent noted "I lost my job after the coup, and now I had to flee from my village and live in the forest due to fighting and violence."

The region faces severe environmental degradation due to extractive activities like logging and mining by the military and associated entities. These activities have reduced the availability of natural resources, making it difficult for women to engage in environmental conservation. One of the respondents shared, "The current situation of environmental degradation in the region is getting worse and worse. In the past, people followed the rules and regulations for protecting natural resources. After the coup, we saw more and more extraction happen in the region, as well as illegal mining and logging. No one followed any rules or protected the resources anymore. The community did not dare to say anything. For the CSO side, we plan to document the situation and keep a close eye on it from the outside."

The ongoing conflict, displacement, and environmental degradation have impacted women and men differently. Women, who traditionally depended on these natural resources for daily living and environmental conservation, now face severe challenges. The contamination of streams

and the loss of forested areas have made it difficult for them to access clean water and sustain agricultural activities. Women, who have been the primary caretakers of natural resources, now face the dual challenge of ensuring their families' survival while also trying to conserve their environment. The displacement of men and young people due to safety and seeking economic opportunities has further reduced the community's ability to maintain conservation initiatives. As a result, environmental degradation continues, threatening the ecological balance and the well-being of those who depend on these resources. This situation underscores the urgent need for enhanced support and intervention to help the community protect and restore their natural capital.

The findings reveal that women in Tanintharyi continue to play crucial roles in environmental conservation despite the compounded pressures of conflict and displacement. Their efforts are characterized by resilience and adaptability, utilizing local knowledge and community networks to sustain conservation activities. The study highlights the importance of recognizing and supporting these women's contributions to environmental governance.

## **Theme 2: Gender Dynamics and Women's Empowerment**

Women in Tanintharyi take on significant responsibilities in both household and community-level environmental conservation. The study examines how traditional gender roles are reconfigured in the context of conflict, with women often stepping into leadership roles in conservation initiatives. The socio-political upheaval has disrupted traditional roles and responsibilities, forcing women to adapt to new and often more challenging circumstances. Women have had to shift their focus from proactive conservation to immediate survival. Displacement has forced many to flee their homes, prioritizing the safety and basic needs of their family's situation over environmental work. Despite these challenges, women continue to utilize their environmental knowledge to adapt to new environments and sustain their livelihoods. Gender roles became rearranged in the context of environmental preservation because of the conflict. Women became the primary breadwinners to support their families. The increased workload for women was often made worse by the absence of men. Men would leave the farms to work in other locations, hide from attacks, or undergo military training. This shows that power dynamics based on gender influenced experiences during wartime and strategies for making a living. Despite the increased burdens and responsibilities, displaced women continue to play a critical role in

sustaining the environment and communities in their expanded roles, which highlights the intersection of gender, environment, and conflict in shaping their experiences and actions. Women in the Tanintharyi Region possess deep-rooted ecological knowledge passed down through generations, which is crucial for the management and conservation of natural resources. This knowledge includes understanding local flora and fauna, sustainable farming practices, and the medicinal properties of plants. Despite the conflict, women continue to prioritize the preservation of this knowledge, integrating it into their coping strategies and daily survival activities. This emphasis on traditional ecological knowledge highlights the intrinsic value women place on maintaining a connection to their environment. They used alternative strategies to transform conservation work into knowledge transfer.

Empowerment is a key theme in understanding women's roles in environmental conservation. The study investigates how women in Tanintharyi empower themselves through community-based initiatives, advocacy, and collaboration with organizations like TRIP NET. These efforts are crucial for building sustainable and equitable development in conflict-affected areas. In the face of conflict, displaced women demonstrated resourcefulness in empowering themselves. During the interviews, women explained that they acquired their knowledge of environmental conservation through workshops and training provided by CSOs in the past. This knowledge has allowed them to understand their current situation and how to work together to conserve the environment. Therefore, women may have formed support groups or networks with other women, sharing resources, knowledge, and emotional support, which ultimately empowered them in these challenging times.

## **Conclusion**

It can be confirmed that the gendered impacts during conflict are greatly different. Women in the Tanintharyi region have faced significant challenges in accessing and managing natural resources due to the ongoing conflict between the military and ethnic armed groups. Women have had to adapt their livelihood and environmental conservation strategies to address these challenges, highlighting their resilience and agency. The roles of collective action, support networks, and women's environmental activism have been crucial in sustaining community-level environmental conservation efforts amid the conflict. Moreover, the displacement of men in times of conflict

significantly changed their roles and responsibilities in livelihood and environmental conservation. Using FPE to analyze contributed to more grounded analyses to understand gender dynamics in conflict times.

Recommendations include 1) strengthening support networks for women in conflict-affected areas, which is crucial. This includes enhancing community-based organizations and providing platforms for women to share their experiences and strategies. 2) Enhancing Access to Resources: ensuring women's access to resources and decision-making processes is essential for effective environmental governance. Policies should aim to provide equitable access to land, water, and other natural resources. 3) Research and policies should consider the specific needs and contributions of women in environmental conservation. This includes integrating gender perspectives into environmental and development planning. 4) Supporting Community-Based Initiatives: Community-based initiatives that empower women and address socio-economic disparities should be promoted. These initiatives can enhance community resilience and sustainability.

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# Defining ‘Subaltern’ in ‘Subaltern Counterpublics’

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## Abstract

‘Subaltern counterpublics’ is a concept proposed by Nancy Fraser to suggest that public spheres should be multiple and diverse to provide discursive spaces and arenas for the subaltern to withdraw and regroup from the rather fixated and deliberated single public sphere as Habermas suggests, which, in Fraser’s argument, tend to allow for the dominant hegemony to exert its ideas and practices over the subordinated groups within the public sphere. While the term ‘subaltern’ in ‘subaltern counterpublics’ was inspired by Gayatri Spivak’s subaltern, arguing that the subaltern is marginalised and excluded from the hegemonic society to the point that they lack their agency, there is a lack of definition and discussion on the notion of subaltern itself, as the concept emphasises more on the discursive spaces that empower the subaltern. This paper argues that understanding ‘subaltern’ is as crucial as understanding ‘counterpublics,’ as the subalterns are necessary constituents in the hegemonic power relations of the society and its public spheres. It does so by going through the current understanding and application of ‘subaltern counterpublics’ in the literature and proposing Peter D. Thomas’s conceptualisation of ‘subaltern’ based on Gramsci’s theorisation as a framework to understand the subalterns and the subaltern/hegemonic power relations within and among the public spheres. In doing so, the paper suggests that understanding ‘subaltern’ is necessary to the conceptualisation of ‘subaltern counterpublics.’

**Keywords:** subaltern counterpublics, public sphere, subaltern, power relation

## Introduction

The development paradigm post-World War II has led to the concept of the Global South and modernisation in a linear and predictable trajectory that claims itself to be universally desired (Saffari, 2016). The various forms of evolution of the development paradigm, as Saffari (2016) argues, have led to intellectual dependency towards the development deliverer for those whom development is considered to be for—in many forms, such as dependency on education, conceptual theories, technology, investment, and skills. Furthermore, through development, the hegemony gains its power through its ideologies and practices circulated and maintained through the mode of knowledge production, a mechanism capable of essentialising and excluding social groups from the hegemony (Saffari, 2016). To prevent, or at least mitigate, the subordination of subaltern

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groups within the mode of knowledge production, Saffari (2016) argues that the knowledge producer, which often is the one who wields hegemonic power, should be mindful of “the relations of domination and subordination within the act of speech” and make room for the subaltern to voice for themselves rather than to be (mis-)represented by others.

The concept of subaltern counterpublics proposed by Nancy Fraser is among the many concepts that aim to provide rooms, in this case, discursive spaces, for the subaltern to be able to speak for and represent themselves. The concept critiques Habermas’s bourgeois singular public sphere, suggesting that public sphere(s) should be multiple and not fixated to allow the subaltern, non-bourgeois, to withdraw and regroup from the oppressive ideologies (Fraser, 1990). Subaltern counterpublics, as its name may have suggested, is coined by Fraser with the concept of subaltern in mind. Despite subaltern being an element worth as much as half of the name, subaltern counterpublics tends to overtly emphasise its element of being ‘counterpublics’ providing alternative discursive spaces (Fraser, 1990). While the writing on subaltern counterpublics briefly mentions Spivak’s notion of subaltern, the concept does not engage with the definition and nature of subaltern in detail. Furthermore, the focus of the concept remains on the “discursive spaces,” even when it is adopted and applied by other scholars. While it may not necessarily be the case for all, leaving the definition of the subaltern unclear by solely focusing on the medium of the alternative discursive spaces can render the power of the subaltern to be dependent on the empowering medium such as subaltern counterpublics, rather than suggesting that the subaltern can have agency of their own even without such spaces.

In this paper, I argue that the notion of subaltern should be recognised and pronounced within the concept of subaltern counterpublics. Furthermore, rather than understanding the subaltern as voiceless, cannot be represented (different from being re-presented), and thus lack their own agency as Spivak’s suggests in “Can the Subaltern Speak?” (2013), I suggest that the subaltern should be understood as multiple distinct groups with their own agency, although not overt, within the hegemonic-subaltern power relations placed upon them by the hegemony as suggested by Thomas (2018) in his article “Refiguring the Subaltern.” I argue that only when the notion of subaltern is appropriately discussed and defined within the framework of subaltern counterpublics will the concept of subaltern counterpublics be able to empower the inherent power of the subaltern(s) (as opposed to giving power to the powerless).

This paper is part of a master’s thesis that explores the concept of subaltern counterpublics in the context of alternative media in Thailand. It aims to investigate and justify the connection between the concepts of ‘subaltern’ and ‘subaltern counterpublics’, which will be a foundation of the thesis’s conceptual framework.

## **Methodology**

This article aims to problematise and discuss the notion of subaltern within the concept of subaltern counterpublics. It seeks to do so by reviewing multiple literature on two main concepts including 1) Nancy Fraser's subaltern counterpublics and its application by other scholars, and 2) Thomas's subaltern which is refigured based on Gramsci's subaltern in "The Prison Notebook." The first part of the analysis will explore the conceptual framework of the subaltern counterpublics proposed by Nancy Fraser, followed by interpretation and application by other scholars who adopted the concept in their works. The second part of the analysis will elaborate on the notion of subaltern, primarily by Peter D. Thomas, and how the concept of subaltern fits into the conceptualisation of subaltern counterpublics. A section after that will discuss why addressing subaltern is necessary to avoid subconsciously framing the subaltern as inherently powerless without external medium such as the subaltern counterpublics.

## **Analysis**

### **Nancy Fraser's Subaltern Counterpublics**

In her article "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," Fraser (1990) reconceptualises the notion of "the public sphere" by problematising Habermas's four assumptions of the "liberal model of bourgeois public sphere": the assumptions I) that all participants of the public sphere can "bracket" their status and deliberate as if they are socially and economically equal; II) that the public sphere should be singular and comprehensive rather than multiple contesting publics as it is deemed a step away from democracy; III) that the public sphere's discourse should strictly be about common good rather than "private interests"; IV) that a sharp separation between civil society and the state is necessary to a functioning democratic public sphere.

Addressing the first two assumptions of the public sphere that "the public sphere" should be a singular and comprehensive space accessible to everyone equally, Fraser (1990) suggests that social bracketing and deliberation do not result in the absence of social inequality within the public sphere. Through deliberation, one form of linguistic and cultural practices is preferred over others favouring the hegemony within the public sphere (Fraser, 1990). As a result, people who do not conform to the hegemony may find themselves outside the public discourse, leaving them unable to participate and speak (Fraser, 1990). It is here that the assumption that the public sphere in its singular form supports and welcomes everyone in the society can be interpreted as a subtle form of control and domination over the non-hegemonic groups, as it absorbs "the less powerful into a false 'we' that reflects the more powerful" (Fraser, 1990). Furthermore, having alternative, more than a single, public spheres can be beneficial to society as it allows countering discourse towards the dominant public (Fraser, 1990). These alternative spaces manifest themselves as a response to exclusions within the dominant publics, to be a space "where members of subordinated social groups invent and circulate counterdiscourses, which, in turn, permit them to formulate oppositional interpretations of their identities, interests and needs" (Fraser, 1990).



Regarding the third assumption that the discursive space within “the public sphere” should strictly be in regards to the public common good, Fraser (1990) argues that the process of deliberations, in which interlocutors only discuss the “public matters,” means that what is considered to be, and not to be, of public concern is predetermined. Nevertheless, as discursive space within the public sphere cannot be separated from social inequality, subaltern groups’ identities, interests, and needs are often overlooked by the overarching singular public discourse (Fraser, 1990).

Lastly, Fraser (1990) problematises the assumption that there should be a sharp separation of civil society and the state by proposing the concept of “strong publics” and “weak publics.” With the emergence of the modern parliamentary state, the sovereign parliament serves as a public sphere in which the outcome of its deliberation directly influences decision-making (Fraser, 1990). Such characteristics of the public spheres having influences over the decision-making of the state and its accountability constitute what Fraser (1990) refers to as a “strong public.” Furthermore, Fraser (1990) suggests that Habermas’s “the public sphere” is potentially a “weak public” as the “force of public opinion” in the public sphere is not strong due to the condition that the representing body must not be of, or empowered by, the state. Combining with the idea that there should be multiple public spheres, the diverse multiple public can have various degrees of the “force of the public opinion” working in many levels of the society, interacting with one another to contribute to the state’s accountability and decision making (Fraser, 1990).

### **Interpretation and Application of Subaltern Counterpublics**

The concept of subaltern counterpublics has been adopted by many scholars. In media studies, Vrikki and Malik (2019) apply the framework to explain alternative media as discursive spaces, allowing the subaltern to engage, express, and create their counterdiscourses. Their research suggests that while deliberation can be a tool of exclusion, it can be used by the subaltern to include those that are outside of the hegemony into their counterpublics. Nevertheless, counterpublics must position and maintain themselves amidst capitalism which can gradually transform them into hegemonic conformed spaces. In “In Defense of Safe Spaces: Subaltern Counterpublics and Vulnerable Politics in the Neoliberal University,” Waugh (2019) applies the concept to defend “safe spaces” in British Higher Education that they are not spaces of the vulnerable who would be hurt by any action outside (as framed by the hegemonic ideology), but rather discursive spaces that allow for the subordinated groups to formulate their own perspectives and vocabularies that let them “theorise their oppression.” Additionally, in “Performance and the celebration of a subaltern counterpublic,” subaltern counterpublics is used to explain the experience of those involved with the Women's Center of Carbondale, Illinois. Maguire and Mohtar (1994) illustrate that there are unequal power relations even within the subaltern counterpublics as the Women’s Center needed to be organised, and therefore hierarchised. Furthermore, Maguire and Mohtar (1994) point out the complexity of their position and decision

in representing the vulnerable within the centre that they may not fully understand and be able to portray the authentic experience the vulnerable has.

The three examples of subaltern counterpublics's application illustrate and further reinforce the claim that subaltern counterpublics often does not engage with the notion of subaltern itself. Instead, it focuses on the discursive spaces it provides along with the potential to empower the subaltern within the spaces. To fully understand the notion of 'subaltern counterpublics,' I argue that the notion of subaltern should be engaged.

### **Thomas's Subaltern**

Although the concept of subaltern often is referred to Spivak's notion of subaltern as a figure of marginality and exclusion, the use of the term subaltern, to refer to subordinated class(es) or group(s) of people, originated from Antonio Gramsci (Green, 2011; Thomas, 2018). For Spivak (2013), the subaltern people are displaced from society to the point that they lack the agency to speak or act for themselves. They are excluded from the discussion and decision-making regarding social matters, and even their own matters (Spivak, 2013). Nevertheless, for Gramsci, the subaltern social groups are not excluded from the society, nor are they in opposition to the hegemony (Green, 2011; Thomas, 2018). Instead, the subaltern is a crucial constituent of hegemony and the integral state. According to Green (2011) and Thomas (2018), Gramsci's concept of subaltern was developed along with his concept of an "integral state", that a state is not comprised solely of political society, but also of civil society. Simply using political means such as enforcing laws and regulations by the state in the political sphere—without exercising "a degree of hegemony in civil society in order for subaltern groups to consent to their subordinate position and the authority of the ruling groups"—is not enough to govern the integral state (Green, 2011). As such, the subaltern social groups do not just exist on their own, but they exist within the hegemonic relationship as an essential component together with the hegemony that co-constitutes the modern integral state (Green, 2011; Thomas, 2018). Thomas (2018) conceptualises 3 dimensions of subaltern from Gramsci's "Prison Notebook":

#### *1. The Irrepressible Subaltern*

Contrasting to the subaltern social group being irrepresentable and cannot express themselves in any given circumstances, the subaltern groups are continually expressive, "albeit in ways which are not easily comprehended within the existing political or intellectual orders" (Thomas, 2018). Furthermore, the subaltern social groups are not an "amorphous mass of the indifferently oppressed," but there are many subalterns within the subaltern relationality of civil society and political society, in different degrees and stages of subalternity.

#### *2. The Hegemonic Subaltern*

Contrasting to the assumption that the subaltern existing in opposition and outside of hegemony, the subaltern constitutes a necessary complement for hegemony. In the passive revolution processes, which contribute to the modern integral state, the ruling classes need to continually produce and reproduce the subaltern social groups to maintain its hegemonic position within the hegemonic-subaltern relationality. Thomas (2018) states, “It is precisely here, [...], that the potential political power of the subaltern lies.”

### 3. *The Citizen-Subaltern*

Thomas refers to this dimension as “citizen *sive* subaltern” to illustrate that “subalternity is not a relation of exclusion from citizenship, but rather, one of the forms of its realization.” According to Thomas, it is the active mobilisation of the subalterns, into their own political organisations, within the dynamic of passive revolutionary process, that encloses the subalterns within the integral state. “Passive revolution,” in Gramsci’s sense, refers to a ‘blocked dialectic’ process in which a dominant group maintains its hegemony by incorporating forces that potentially threaten its dominance. Thomas (2018) argues, “‘the end’ of subalternity is conceived not in terms of an exit from this condition but as the internal transformation of the hegemonic relations that structure it.”

Thomas’s refiguring subaltern provides an approach to examine subalternity within the hegemonic relations, constituted and maintained by both the ruling classes and the subaltern classes. To maintain their hegemonic position, the ruling classes need to produce and reproduce the subaltern groups through any means.

## **Discussion and Conclusion**

After reviewing the two concepts and their application, I found that there are multiple complementary elements within the notions of ‘subaltern’ proposed by Thomas (2018) and ‘subaltern counterpublics’ proposed by Fraser (1990). *The irrepressible subaltern*’s suggestion, that the subaltern groups are multiple distinct groups with characteristics of their own, resonates with Fraser’s argument that subaltern counterpublics should be multiple and not fixated. *The Hegemonic Subaltern* further reinforces the conceptualisation of “strong” and “weak” public as the subaltern and counterpublics exist within the power relation to the hegemony and the state. Furthermore, *the Citizen-Subaltern* can explain the emergence of subaltern counterpublics as active mobilisation of the subaltern within the hegemonic-subaltern power relations.

Although the two concepts are complementary to each other, and seemingly interchangeable, they are necessary concepts in understanding one another. While the notion of subaltern counterpublics suggests agency and power subaltern groups may hold within and through the discursive spaces, without adequately discussing the notion of subaltern, such concept may

subconsciously render the subaltern inherently powerless without the help of the counterpublics. The notion of subaltern proposed by Thomas (2018) illustrates essential characteristics of the subaltern that are not exclusively in the subaltern counterpublics. Instead, the subaltern counterpublics provides discursive spaces that highlight and empower the power and agency of the subaltern that they inherently have but otherwise would not be as overt.

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# ROLES OF ISLAMIC RELIGIOUS EDUCATION TO STRENGTHEN WOMEN'S EMPOWERMENT: A CONTEMPORARY PERSPECTIVE

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## Abstract

Islamic religious education has the potential to play a crucial role in empowering women, particularly in the Muslim world where they continue to face oppression and denial of rights, by promoting an epistemological understanding of patriarchal societal structures that perpetuate multidimensional violence and hegemonic masculinity. A comprehensive and progressive approach to Islamic education is necessary, one that embraces women's interpretations of religious texts, challenges intellectual habits that normalize women's passivity, and confronts sexism, domestication of women, and toxic power relations that limit understanding of women's issues. Through such a transformative Islamic educational ecosystem, aligned with Islamic Education, ongoing violence against women can be prevented, and their empowerment efforts can be strengthened by dismantling oppressive structures and paving the way for a more equitable society where women's rights and opportunities are upheld.

**Keywords:** Islamic religious education, Muslim women, and women empowerment

## Introduction

Islamic religious education is crucial in empowering women in the modern era. Many Islamic values uphold gender equality, independence and the formation of the character of women who are strong and able to contribute to society (Dwi Ratnasari, 2021). The Al-Quran has included many verses that emphasise gender equality gender and encourage women's empowerment. One of them is in the QS. An – Nisa (4): 124 "Whoever does righteous deeds, whether male or female, and he is a believer, then they will enter heaven and they will not be wronged in the slightest". This verse explain that the opportunity to do good deeds, get rewards and happiness in the afterlife for everyone regardless of status and gender.

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Women empowerment is an important issue and is a concern to many parties. From this title, the authors show that Islamic Religious Education has an important role with relevance to actual issues (Sabrina et al., 2022). The author takes this title, to show that Islamic religious education doesn't only discusses all spiritual aspects, but is also related to our daily lives, including women's empowerment. Amid the widespread stigma of subordinated women, this topic provides the view that Islam is present in the world to bring justice and Islam is present as universal justice for all people (Sabrina et al., 2022). With Islamic education, women can better understand the right guaranteed by religion and inclusive Islamic religion education can provide a wide path for women to get an education so that they can increase women self-worth (Harahap et al., 2022).

Islamic religious education's role in strengthening women's empowerment is compelling for several reasons. Firstly, the intersection of religion and gender rights is a critical area of study, especially in contemporary societies where traditional norms are often in tension with modern values (Naher, 2005). Islamic religious education, in particular, offers a unique perspective on women's roles and rights within a framework that many Muslims around the world follow. We can understand how religious education and practices can be leveraged to promote gender equality and empower women within their communities. For millions of Muslim women around the world, Islamic religious education shapes their understanding of their roles, rights, and responsibilities within their families and societies. The principles and values imparted through religious education influence their daily decisions, interactions, and opportunities. By examining how Islamic Education can support women's empowerment, we can identify practical ways to enhance their social, economic, and political participation.

Moreover, the topic addresses broader societal dynamics. Women's empowerment is crucial for the development and well-being of any community. When women are educated, informed, and empowered, they contribute positively to their families, economies, and societies at large. Islamic religious education, when interpreted and applied with a focus on equality and justice, can play a significant role in achieving these outcomes. Thus, this topic is directly linked to the everyday experiences and aspirations of women, as well as the overall progress of their communities. In the contemporary world, the movement for gender equality and women's empowerment is gaining momentum globally. However, challenges persist, particularly in regions where traditional and conservative interpretations of religion may hinder women's progress. By exploring the roles of Islamic religious education in this context, we can contribute to ongoing efforts to promote gender equality from within religious frameworks (Marshall, 2018).

Additionally, this topic is relevant in addressing misconceptions and stereotypes about Islam and women's rights. In many parts of the world, there is a lack of understanding about the positive aspects of Islamic Education related to gender equality. Highlighting how Islamic education can empower women helps counteract negative narratives and promotes a more balanced view of the religion (Zubair & Zubair, 2017). This, in turn, fosters greater intercultural and interfaith dialogue, understanding, and cooperation. Furthermore, as a global religion with diverse followers, Islam's approach to women's empowerment varies significantly across

different cultural contexts. Studying this topic allows us to highlight positive examples and address misconceptions that often surround the role of women in Islam (Chowdhury et al., 2017). This exploration is not only academically enriching but also socially impactful, as it contributes to understanding of how Islamic Education can support women's rights and societal contributions.

Islamic education in encouraging women's empowerment can also solve various social problems, such as poverty, gender gaps and social injustice. Women with good education have a greater chance of achieving economic independence, which can help solve these problems (Niswah, 2022). By producing robust research and reliable data, we can motivate policymakers, community leaders, and educational institutions to invest more in Islamic education for women. Apart from that, Islamic education as an instrument for women's empowerment is also in line with the humanitarian principles that underlie all its Education. Universal principles such as justice, equality and compassion are values contained in religious Education and can be applied in the context of Islamic education. Therefore, understanding and applying these principles in Islamic education is becoming increasingly important (Halstead, 2007).

In contemporary society, women's empowerment is still an important goal in promoting inclusive development. Islamic religious education, with its rich Education and ethical foundation, offers a unique path to empowering women, enabling them to contribute effectively to their communities and society (Ali Shahzad et al., n.d.). This research discusses the role of Islamic religious education in strengthening women's empowerment and identifies two indicators that can be achieved to measure the success of this research. This indicator is the empowering role of Islamic religious education as a basis for instilling values, knowledge and ethical behavior. By involving women in religious education, they can gain access to important religious knowledge, which not only improves their spiritual well-being but also builds their self-confidence and leadership abilities. The principles of justice, equality, and respect, as emphasized in Islamic Education, serve as instruments for advocating women's rights and promoting gender equality (Hasan, 2024).

Religious education programs can empower women by providing them with a deeper understanding of their rights and responsibilities within the Islamic framework. This knowledge equips women to challenge misunderstandings and cultural practices that hinder their progress. Understanding the environment is a good support system for women in pursuing religious education which can encourage women to participate actively in the social, economic and political fields (Juul Petersen & Institutfor Menneskerettigheder, 2020). To ensure that initiatives aimed at empowering women through Islamic religious education are effective, there are indicators to measure the success of Islamic religious education in empowering women, including Increasing Women's Participation in Religious Education Programs, this can be done by increasing awareness about available educational programs. Leverage social media platforms and local networks to reach a wider audience. Overcome common barriers such as lack of child care, transportation, and inconvenient class schedules. Providing childcare services, offering transportation, and scheduling classes at convenient times can significantly increase participation. Increasing the Relevance of the Curriculum.



Adapt educational program content to include topics that are directly relevant to the lives and empowerment of women. It covers subjects such as financial literacy, leadership skills, and health awareness. In developing and implementing surveys to measure the level of empowerment before and after participating in the program. These surveys should assess various aspects of empowerment, including self-confidence, ability to make decisions, and level of community involvement. Research should also focus on empowerment by integrating lessons on leadership, financial literacy, and rights into religious education curricula (Janine, n.d.). These topics can equip women with practical skills and knowledge to improve their personal and professional lives. Many things can be done to equip women to provide support, including Providing Support Services, which aims to offer additional resources such as counselling, guidance and networking opportunities. Support services can help women overcome challenges and take advantage of opportunities for growth and development (Bradshaw et al., 2017).

The significance of the research is what makes the research important. This significance can be categorized into two main aspects: theoretical and practical. The theoretical significance lies in the contribution of this research to our understanding of the role of Islamic religious education in women's empowerment in today's world (Lykken, 1968). This is achieved through the application of modern interpretations of Islamic texts that address issues related to women's empowerment, as well as the development of a comprehensive and contextually relevant conceptual framework. Practically, this research has the potential to inform the creation of Islamic religious education guidelines that are more supportive of women's empowerment. In addition, it can help in designing women's empowerment strategies that integrate Islamic values and Education. Of course, in this research the author involves many stakeholders, including the Chairperson of PDNA Salatiga City, the Manager of Baitut Tanwil Muhammadiyah (BTM), women entrepreneurs and lecturers of FEBI UIN Salatiga. This research is important because it can make a significant contribution to efforts to achieve gender equality and social justice.

By understanding and applying Islamic values that focus on women's empowerment. And this research can have a good impact on society. This research can help the wider community to better understand the role and status of women in Islam, as well as Islamic values that support gender equality and women's empowerment. This helps reduce stereotypes and discrimination against women. Empowered Indonesian women can be important development change agents in all regions of the country. Empowered women can be agents of positive change and contribute to achieving global development goals. The study "Roles of Islamic Religious Education in Strengthen Women's Empowerment: A Contemporary Perspective" has a broad meaning and is beneficial to all parties. The results of this research are expected to make a valuable contribution to the understanding and development of more effective and realistic strategies for women's empowerment in the contemporary Islamic context in Indonesia and at the global level.

In order to keep the discussion focused and concise, the scope of this research is specifically limited to examining women's empowerment through Islamic religious views. Women's empowerment has become a major concern, progressive efforts are directed at

achieving gender equality and providing women with opportunities to access various areas of life. Islamic religious education has an important role in efforts to facilitate this, offering a unique perspective that integrates spiritual, moral and educational dimensions. This research discusses how Islamic religious education can contribute to strengthening women's empowerment, with a focus on its role, impact and potential challenges (Rasyidi & Nasri, 2023).

These values are embedded in the Qur'an and Hadith, which advocate the dignity and rights of women. By instilling these principles, Islamic education fosters women's sense of self-worth and self-confidence, empowering them to achieve their goals and aspirations. One of the key roles of Islamic religious education is to increase knowledge and awareness of women's rights within the Islamic framework (Farooq, 2021). There are still many women who are not aware of their rights because cultural and societal norms often obscure religious Education. Islamic education can bridge this gap by educating women about their rights in marriage, inheritance, and participation in social and economic activities. This knowledge empowers women to assert their roles and make informed decisions in their personal and professional lives. In history, Muslim female figures have proven that Islamic religious education really highlights the lives of the most prominent and influential women in history, such as Khadijah bint Khuwaylid, the first wife of the Prophet Muhammad SAW, and Aisha bint Abi Bakr, a famous cleric. These figures are role models who show that women have played an important role in human civilization (Khan, 2015). By learning about these exemplary women, contemporary Muslim women can gain inspiration and motivation to assume leadership roles and contribute to their communities. Islamic education fosters a sense of togetherness and support among women, encouraging collective action and mutual assistance. This communal aspect is critical to empowerment, as it provides a network of support and resources that women can rely on. Educational programs and religious gatherings offer a platform for women to share experiences, discuss challenges, and collaborate on initiatives that enhance their well-being and progress (Davidson et al., 2011).

Islamic religious education contributes to women's empowerment in various dimensions, including access to education, access to education is the most basic right in Islam. Islamic Education recommend education for everyone without exception, both men and women. By providing women with educational opportunities it will help them gain the knowledge and skills needed to participate fully in society (Davidson et al., 2011). Economic Empowerment: Efforts to empower women economically are very important for their independence and well-being in order to achieve financial independence. Educational programs that include skills and financial literacy training can enable women to engage in entrepreneurship and improve their economic status. Political Empowerment, in encouraging women to participate in political processes and decision making is very important for their overall empowerment. Islamic education can provide ideological support for such participation, advocating women's involvement in government and public affairs (Sahin, 2018).

## Methodology

This study employs a qualitative research approach to explore the experiences of Muslim working women in private organizations. Qualitative methods are particularly suitable for this research as they allow for an in-depth understanding of complex social phenomena and individual perspectives (Creswell & Poth, 2018). The study utilizes snowball sampling, a non-probability sampling technique where existing participants recruit future participants from among their acquaintances (Noy, 2008). This method is especially effective when studying hidden or hard-to-reach populations (Atkinson & Flint, 2001).

The study aims to include five participants who meet the following criteria: (i) Muslim faith; (ii) female; (iii) employed in a private company or university and (iv) aged between 25 and 40 years old. These criteria ensure that the sample represents the specific demographic of interest while allowing for some variation in experiences. Semi-structured interviews serve as the primary data collection method. This approach provides a balance between consistency across interviews and flexibility to explore unique experiences (Galletta, 2013). The interview guide covers key themes related to the research questions while allowing for open-ended responses and follow-up questions. The interview questions are shown below:

| Question no. | Question   |
|--------------|--|
| Q1           | What do you think about access to women empowerment?   |
| Q2           | What are the challenges faced by women to be empowered?  |
| Q3           | Does Islam plays a role in women empowerment?  |
| Q4           | What are your opinion/perspective regarding the roles of Islamic preachers/influencers in promoting women empowerment? |

*Table 1: Instrument Questions*

Thematic analysis will be employed to identify, analyze, and report patterns within the data (Braun & Clarke, 2006). This method is well-suited for qualitative studies as it offers flexibility while maintaining a rigorous approach to data interpretation. Informed consent will be obtained from all participants, and confidentiality will be maintained throughout the research process. The study will adhere to ethical guidelines for research involving human subjects, including the right to withdraw at any time (American Psychological Association, 2017). The small sample size and non-random sampling method may limit the generalizability of findings. However, the in-depth nature of the interviews and the focus on a specific demographic group align with the qualitative approach's strengths in providing rich, contextual data (Patton, 2015).

## Findings

In the effort to achieve equality, women's empowerment is an important goal throughout the world. This research explores the comprehensive nature of women's

empowerment, with a special focus on the important role of Islam in fostering and advocating for women's empowerment in achieving equality.

### **Access to Women's Empowerment**

Women's empowerment is more than just the recognition of rights; it includes a holistic approach that empowers women to realize their full potential. By providing opportunities for women to develop their skills, assert their rights, and participate actively in society, empowerment becomes a catalyst for sustainable development and societal progress. According to respondents, women's empowerment is crucial in the current era, reflecting an important aspect of societal progress. They emphasize that empowering women means providing equal opportunities for education, economic participation, and leadership roles. This approach not only enhances individual capabilities but also contributes to broader social and economic development (Pohl, 2006).

### **Challenges Faced by Women to be Empowered**

Despite progress towards gender equality, women still face tough challenges in their efforts for empowerment. These challenges are rooted in deep-rooted societal attitudes and norms that perpetuate gender disparities (Othman, 2006). Women often face barriers such as limited access to education, discriminatory laws and practices, unequal pay, and cultural expectations that limit them to traditional roles. In addition, in some communities, there is still a lack of awareness and education regarding women's rights, thus perpetuating inequalities and hindering women's progress (ARAT, 2015) .

### **Does Islam Play a Role in Women's Empowerment**

Islam as a religion and way of life upholds the principles of justice, equality and human dignity. Contrary to misconceptions, Islamic Education emphasize equality and competence between men and women (Samier, 2016) . The Koran explicitly affirms the fundamental equality of all individuals before God, regardless of gender, ethnicity, or social status. An-Nisa's letter, for example, highlights the mutual support and partnership between men and women in familial and community roles. In the Islamic context, respondents unanimously agreed that Islam plays an important role in promoting women's empowerment. They highlight Islamic Education which underline the equality of men and women before God, emphasizing mutual respect, partnership and shared responsibility in society. Based on the data we researched, it provides many examples of empowered women who have contributed significantly in various fields, who are role models for contemporary women who want to fulfill their potential while adhering to Islamic principles(Tlaiss, 2015) . Islamic history also provides examples of women playing important roles in education, business, government, and societal leadership. Figures such as Khadijah bint Khuwaylid, a successful businesswoman and first wife of the Prophet Muhammad, exemplify the empowerment and

agency that Islam gives women. This historical precedent is an inspiration for contemporary Muslim women who want to excel in various fields while remaining true to their beliefs (Keddie, 1990) .

### **Roles of Islamic Preachers/Influencers in Promoting Women's Empowerment**

Islamic influencers have a large influence in shaping public discourse and perception within the Muslim community. They have an important role in educating about gender equality and empowering women by spreading Education that uphold the rights and responsibilities of women in Islam (Rossanty et al., 2021) . These influencers use various platforms, including mosques, social media, and educational institutions, to educate men and women about the importance of gender equality and women's empowerment. Additionally, Islamic influencers highlight the exemplary contributions of Muslim women throughout history and contemporary society. By featuring these role models, they challenge stereotypes and inspire women to pursue education, leadership roles, and entrepreneurial ventures. Through their advocacy and leadership, Islamic influencers contribute to changing society's attitudes towards women, fostering an environment where women are valued and empowered to make meaningful contributions to their communities and beyond (Nouraie-Simone, 2014).

Respondents expressed appreciation for their efforts in advocating for women's rights and empowerment. They recognize that these influencers use their platforms to challenge stereotypes, educate the public about gender equality in Islam, and inspire women to pursue education, careers, and leadership positions (Nabacwa, 2001). By highlighting the positive contributions of Muslim women throughout history, these influencers contribute to changing societal norms and promoting an inclusive environment where women are valued and encouraged to excel in all aspects of life. Overall, respondents believed that integrating Islamic principles of justice, equality, and respect for human dignity with efforts to empower women is critical to fostering a society that is more accepting of empowered women. They emphasize the need for ongoing advocacy, education, and policy initiatives that support women's empowerment, ensuring that all individuals, regardless of gender, have the opportunity to thrive and contribute positively to their communities and beyond (Mayoux, 1998).

### **Discussions**

Women's empowerment is a multifaceted process. This engages women with the tools and opportunities necessary to explore their potential, build self-confidence, and actively participate in various sectors of society. Access to education, economic resources, and decision-making roles are critical to this effort (Mayoux, 1998). This process is not only about equal rights but also about equipping women with the tools to transform their lives and communities. Women tend to be successful if they are given lots of access, networks, education to a high level, carry out economic exploration and are financially independent and mentally independent. This will provide a great opportunity for women to participate and

become agents of change in every line and be better empowered. Despite significant progress in promoting gender equality, women still face major obstacles to empowerment (Rogers & Singhal, 2003). Challenges highlighted include societal attitudes that underestimate women's abilities, gender discrimination, and a lack of self-confidence among women themselves. Respondents stated that these challenges were greater in areas with limited education regarding gender equality. The persistence of traditional gender roles and stereotypes further impedes women's progress, limiting their access to opportunities and their ability to fully realize their potential (Croft et al., 2015).

Islam plays a crucial role in advocating for women's empowerment, emphasizing gender equality and mutual respect in all aspects of life. Based on the Qur'an and Hadith, Islamic education supports women's rights to education, economic participation, and social inclusion (Croft et al., 2015). This tradition views women as empowered individuals with equal rights and responsibilities before God. Islamic preachers and influencers significantly impact public perceptions of women's empowerment. They use their platforms to challenge stereotypes and educate about Islamic principles of gender equality (Islam, 2021). By showcasing prominent Muslim women's achievements throughout history and in contemporary society, these influencers inspire women to pursue their aspirations and contribute positively to their communities. Their efforts are critical in changing social norms and creating a supportive environment for women's endeavours (Islam, 2021).

## **Conclusion**

This study highlights the important role of Islamic religious education in women's empowerment, especially in Muslim countries where gender inequality and oppression are still prevalent. The integration of progressive and comprehensive Islamic education that includes women's interpretations of religious texts and challenges patriarchal norms can be a powerful tool in promoting gender equality. By fostering an understanding of women's rights and addressing issues such as sexism, domestication, and toxic power relations, Islamic education can contribute to a transformative ecosystem that empowers women and prevents ongoing violence against them. From the role of Influencers, there is now a wider medium of dissemination for women, women are free to access knowledge so that they can be empowered in all aspects.

## **Recommendations**

In the future, it is hoped that women can support each other and encourage and support women scholars in interpreting religious texts to ensure that women's perspectives are included and valued in religious education so that empowerment efforts do not only stop at intellectuals, but can extend to ordinary people. Create and implement educational programs that emphasize gender equality, justice and women's rights within the framework of Islamic Education. Address and challenge intellectual habits and social norms that perpetuate women's passivity and subordination. Educators should emphasize women's active and equal

participation in all aspects of life. Provide support services such as childcare, transportation, and flexible class schedules to remove barriers to women's participation in educational programs. Leverage the influence of Islamic preachers and social media influencers to promote positive narratives about women's empowerment and challenge stereotypes. Foster a sense of community among women through educational programs and religious gatherings that encourage mutual support, experience sharing, and collaborative initiatives.

By implementing these recommendations, Islamic religious education can play an important role in dismantling oppressive structures and creating a more just society where women's rights and opportunities are championed.

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# **From Climate Perception to Climate Action: Case Study of Transforming Sustainable Rice Cultivation in the Doem Bang Subdistrict, Suphan Buri Province, Thailand**

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## **Abstract**

The agricultural sector's reliance on weather, water, soil, and other environmental factors makes it highly vulnerable to climate change. This research focuses on rice production, a significant source of greenhouse gas emissions. It examines farmers' perceptions and adoption of sustainable rice cultivation in the Doem Bang subdistrict, Doem Bang Nang Buat district, Suphan Buri Province, Thailand. The study explores how climate knowledge is generated and applied locally, involving collaboration between farmers, policymakers, and experts. Using the Theory of Planned Behavior and qualitative methods, it analyzes the impact of attitudes, social influences, and perceived control on farmers' adoption of mitigation practices. Findings highlight the importance of social advocacy, community strength, and policy support in decision-making. The research also investigates sustainable practices' economic and social returns, considering farmers' risk perceptions and investment assessments. By emphasizing continuous experimentation and adaptation of farmers' rice fields, the study provides insights and policy recommendations to bridge the gap between climate perceptions and actions, contributing to broader climate change mitigation and sustainable development goals.

**Keywords:** Climate perception, Climate change, Mitigation action, Sustainable rice cultivation, Theory of Planned Behavior

## **Introduction**

Climate change, driven by human activities since industrialization, has emerged as a pressing global issue, including agriculture, which is highly dependent on environmental factors. In this sector, rice production is a significant contributor to greenhouse gas (GHG) emissions (ONEP, 2015). International research bodies have introduced several mitigation measures to transform conventional rice cultivation into more sustainable practices to address this. These measures align with Thailand's goal to reduce GHG emissions by 40% by 2030 (ONEP, 2022). In response to national climate policies, Thailand has prioritized shifting from conventional to sustainable agricultural practices. The Ministry of Agriculture and Cooperatives' Twenty-year Agriculture and Cooperative Strategy (2017-2036) emphasizes building farmers' awareness of environmental responsibility (MoAC, 2017). Various stakeholders in Thailand have continuously promoted environmental perceptions and sustainable practices through campaigns and initiatives.

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However, farmers face uncertainty in rice production and must weigh between traditional methods and new government-promoted best practices. Several factors influence their decisions, including motivating determinants and constraints. Despite increased awareness of climate change's impact on rice cultivation, translating this perception into sustainable farming practices that mitigate emissions remains challenging. Understanding barriers and opportunities is crucial for effective climate action.

The Doem Bang subdistrict, a part of the Doem Bang Nang Buat district in Suphan Buri province, located in the Central Plains of Thailand, exemplifies the proactive adoption of sustainable rice cultivation. Situated in the lower central part of the country, the subdistrict benefits from Thailand's most extensive irrigation system, supporting individual and community farmers. This subdistrict offers a valuable case study for examining the intersection of climate perception, decision-making, and sustainable agricultural practices. By exploring the experiences of Doem Bang farmers, this research seeks to uncover the factors driving the shift to sustainable methods and to understand the practical application of climate actions in an agricultural community.

## **Methodology**

The research adopts a qualitative approach, utilizing in-depth interviews, policy reviews, document analysis, and field observations. The primary data was collected from 24 informants, including 20 smallholder farmers, a head farmer, a local government officer, an agricultural extension officer, and an officer from an international organization. Thematic analysis was employed to align interview questions with the research questions, focusing on conceptualizing sustainable rice cultivation, farmers' perceptions of climate change, factors influencing climate perceptions, and translating these perceptions into tangible actions.

## **Conceptual Framework**

This study integrates the Theory of Planned Behavior (TPB), introduced by Ajzen (1991), to assess how farmers implement climate mitigation actions. TPB is a socio-psychological framework widely used to identify intention and behavior, including those related to climate action (Borges et al., 2014). In the first step of shaping perception, the theory predicts the intention to engage in the specific behavior by considering three intertwined determinants:

### ***Behavioral Attitudes (BA)***

Behavioral Attitudes are personal factors that represent an individual's preference for a particular action, influenced by behavioral beliefs. Suppose farmers view low-emission techniques positively and believe they can yield beneficial outcomes, such as addressing environmental issues or enhancing their livelihoods. In this case, they are more likely to adopt these practices (Ajzen, 1991). Attitudes can be both positive and negative and are shaped by personal experiences.

### ***Subjective Norms (SN)***

Subjective norms are social factors reflecting the social expectations or pressures from influential groups that encourage individuals to conform to certain behaviors. These norms are

shaped by normative beliefs, which involve the likelihood of essential referent groups approving or disapproving of a given behavior (Ajzen, 1991; Conner et al., 1999). Farmers often share information about practices, challenges, and innovations within their communities. They tend to engage in behaviors endorsed by their community and avoid those disapproved by significant others.

**Perceived Behavioral Control (PBC)**

Perceived Behavioral Control (PBC) refers to an individual's belief in their ability to execute a behavior, shaped by control beliefs that evaluate their ability to carry out the action (Ajzen, 1991). Factors influencing this perception include the difficulty, accessibility, and feasibility of controlling the process, leading to the desired outcome. PBC involves evaluating factors that facilitate or hinder performance, and one's authority to manage these factors (Phuphaibul & Nuntawan, 2011).

**Behavior Intention (BI) and Behavior Response (BR)**

In terms of the second step in which an individual decides to act, Behavior Intention, influenced by attitudes, social norms, and perceived behavioral control, is a motivating factor for behavior. A solid and confident intention significantly increases the likelihood of engaging in that behavior. In this research, behavioral responses include adopting mitigation techniques such as laser land leveling (LLL), alternate wetting and drying (AWD), site-specific nutrient management (SSNM), and straw and stubble management (SSM).

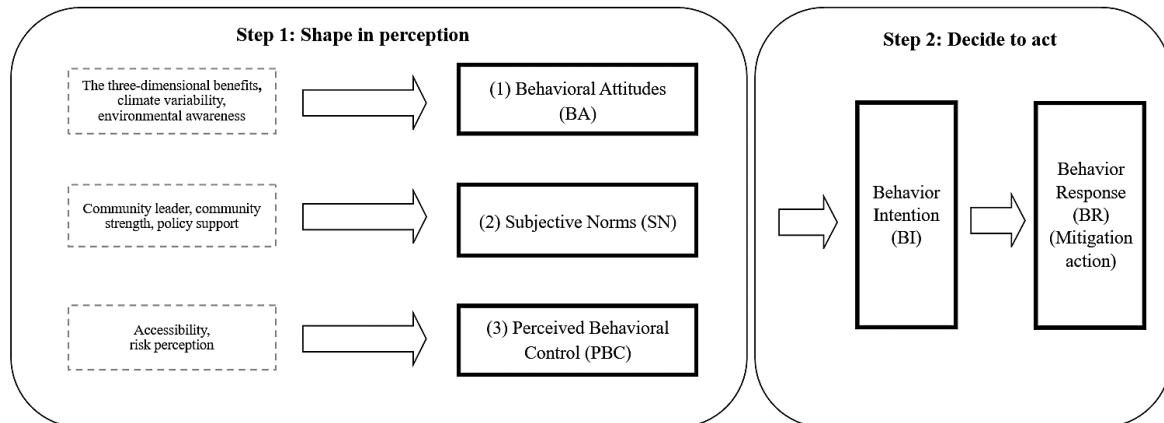


Figure 1 Adapted conceptual framework from the Theory of Planned Behavior (TPB) (Ajzen, 1991)

**Findings**

**Theme 1: Climate Knowledge Production**

Climate knowledge production in the Doem Bang subdistrict is crucial in bridging the gap between scientific understanding and practical action for sustainable rice cultivation. Climate knowledge in agriculture derives from the Intergovernmental Panel on Climate Change (IPCC) report, highlighting the impact of human activity on global warming and the significant contributions of rice fields to methane and nitrous oxide emissions. The production and dissemination of climate knowledge involve integrating local experiences with scientific data,

facilitated by various organizations, such as the Rice Department, Agricultural Extension Department, and *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)*. These entities emphasize a multidisciplinary approach combining agricultural sciences, environmental studies, and economics to adapt sustainable practices to the local context. International and domestic research efforts have been instrumental in developing and contextualizing sustainable techniques. For instance, LLL improves water and crop management, while AWD reduces methane emissions by alternating flooding and non-flooding periods. SSNM optimizes nutrient use, and SSM reduces GHG emissions by preventing the open burning of residues. These practices are presented in an integrated bundle to resonate with farmers' needs, emphasizing interconnected benefits and sustainability. Effective translation of climate knowledge into practice requires collaboration among international organizations, public agencies, and farmers, ensuring the techniques meet farmers' needs for cost reduction, increased productivity, and environmental sustainability. Simplified terminology, such as 'global being hot' (Lok-Ron in Thai) (Vaddhanaphuti, 2017), and practical demonstrations make climate concepts accessible to farmers. The 'SMART farmer approach' and regular training modules are essential for expanding climate knowledge (Soitong, 2010). Agricultural extension services and peer-to-peer knowledge transfer, facilitated by head farmers and communication strategies, are essential for successfully implementing sustainable practices. (Napasintuwong, 2017; Calvin et al., 2023; Gosnell et al., 2019).

### ***Theme 2: Conceptualization of Sustainable Rice Cultivation***

The introduction of climate knowledge on sustainable rice cultivation in the Doem Bang subdistrict led to agricultural extension services facilitated by climate policy facilitators, climate service providers (Vaddhanaphuti, 2017), and community knowledge facilitators. Farmers primarily perceive sustainable rice cultivation through tangible benefits rather than specific methods. The concept of sustainable rice cultivation is thus closely tied to tangible advantages, with farmers prioritizing improvements in their livelihoods. Most farmers connect sustainable practices with economic gains, such as reduced costs, water usage, and improved yields, enhancing financial stability. Social benefits include increased convenience and better health due to reduced chemical use. While not always explicitly mentioned, environmental advantages are recognized through improved biodiversity and climate mitigation. Adopting sustainable practices is further supported by a holistic understanding of sustainability, integrating economic, social, and environmental dimensions, and is facilitated by community learning.

### ***Theme 3: Farmers' Perceptions of Climate Change***

Farmers' understanding was assessed through questions about their observations and responses to climate change impacts on rice farming. Farmers primarily receive climate change information from community sources and media, with varying levels of awareness influenced by direct experiences of climate variability. Increased heat was frequently cited, with farmers noting significantly higher temperatures affecting their daily lives and farming practices. Many farmers also associate climate change with practices like straw and stubble burning, recognizing its environmental impact and requiring moral and cultural change (Vaddhanaphuti, 2017). Deforestation is another perceived factor linked to climate change. Farmers reported

adjusting their farming methods in response to observed changes, such as managing water resources during droughts and adjusting their fieldwork schedules to avoid peak heat. The perception of climate encompasses broader agroecosystem elements, including soil quality, water availability, and biodiversity in the field (such as fish and crabs), indicating an integrated understanding of their climate beyond just atmospheric conditions. This holistic view covers the air, the soil beneath it, and the surrounding field.

Generational differences and community engagement significantly influence the formation of climate perceptions among farmers in the Doem Bang subdistrict. Old-generation farmers have a traditional view, associating climate change with long-term practices like burning crop residues and deforestation. In contrast, younger farmers connect it to broader environmental issues and scientific understanding, often influenced by social media. Higher community engagement also plays a crucial role, with highly engaged farmers showing greater awareness of climate perception associated with rice cultivation practices. Demonstration plots showcasing the GHG emissions from the fields and direct observation enhance understanding, highlighting the importance of hands-on, community-driven learning.

#### ***Theme 4: Translating Perceptions into Tangible Actions***

The examination focuses on how farmers in the Doem Bang subdistrict translate their perceptions of climate change into climate action using the Theory of Planned Behavior (TPB). The TPB framework evaluates Behavioral Attitudes (BA), Subjective Norms (SN), and Perceived Behavioral Control (PBC) to understand farmers' intentions and actions regarding the adoption of the four mitigation techniques. Many studies often expand the theory by incorporating additional variables such as moral norms, past behavior, environmental awareness, etc. (Yuriev et al., 2020). Therefore, the TPB framework is practical in systematically identifying and analyzing this local setting.

##### **Behavioral Attitudes (BA)**

Farmers generally hold positive attitudes towards sustainable rice cultivation due to perceived benefits such as lower costs and higher yields. The economic advantages, particularly from techniques like AWD, strongly influence positive attitudes. This research incorporates the "individual perception of climate variability" as an additional factor, shaping farmers' preferences toward specific solutions (Li et al., 2011). Farmers who experience severe droughts are more inclined to adopt water-efficient methods, motivated by the need to manage water resources effectively. Environmental awareness also plays a role, with farmers recognizing the negative impacts of practices like straw burning and favoring sustainable methods that mitigate these effects.

##### **Subjective Norms (SN)**

Community influence significantly affects farmers' adoption of sustainable practices (Conner et al., 1999). Community leaders and peer farmers are crucial in promoting these methods, with farmers often following practices. Through policies and financial incentives, government support also reinforces adopting sustainable practices. For instance, the government's half-half co-payment scheme makes the LLL technology more accessible,

encouraging farmers to invest in it despite the initial costs. Effective communication and regular community meetings facilitate the dissemination of information and support peer learning, further reinforcing positive social norms.

#### Perceived Behavioral Control (PBC)

Access to resources, including financial support, training, and technical assistance, enhances farmers' perceived control over adopting sustainable practices. Farmers with better access to these resources feel more capable of implementing changes. Furthermore, risk perception is closely associated with control over behavior. Farmers who perceive higher climate risks are more likely to consider adopting new practices, weighing the potential benefits and drawbacks based on factors. Unpredictable weather patterns heighten farmers' aversion to risk. Effective risk management strategies, such as accurate weather forecasting and reliable irrigation systems, can increase farmers' confidence and perceived control, encouraging sustainable practices. Integrating risk perception into PBC provides a comprehensive understanding of the factors influencing farmers' adoption of sustainable practices.

#### Behavior Intention (BI) and Behavior Response (BR)

Despite the weak link between intention and subsequent behavior, one key component in attempts to forecast or affect a shift in behavior is intention, which is regarded as a near approximation to the behavior itself (Balau & Bălău, 2018). Farmers with positive attitudes toward new practices, solid social support, and confidence in implementing changes are likelier to adopt sustainable practices. External constraints, such as land ownership issues, pose significant hindrances. Many farmers rent land and are reluctant to invest in sustainable practices, such as LLL, on rented fields due to uncertainties related to land tenure and the potential lack of long-term benefits from investing in land they do not own. Addressing these issues through targeted policies and support systems can bridge the gap between intention and action, ensuring broader adoption of sustainable practices.

BR refers to farmers' actual adoption of sustainable practices. In the Doem Bang subdistrict, widespread adoption of techniques has been successful. Farmers report ongoing use of these methods, citing multidimensional benefits. Therefore, continuous support, feedback mechanisms, and community engagement are crucial for maintaining the consistency of these practices and reinforcing farmers' commitment to sustainable agriculture.

#### **Conclusion**

This research explores the intricate dynamics between climate perception and adopting the four mitigation techniques using the qualitative research method by applying the Theory of Planned Behavior (TPB). The study begins by examining climate knowledge production and its role in shaping perceptions and actions through the perspectives of policymakers or climate policy facilitators. Sustainable rice cultivation techniques, including laser land leveling (LLL), alternate wetting and drying (AWD), site-specific nutrient management (SSNM), and straw and stubble management (SSM), are promoted to reduce greenhouse gas emissions while maintaining productivity, supported by multi-level governance and institutional support.



The findings highlight that effective climate knowledge production involves an ongoing learning process crucial for fostering informed decision-making. Farmers in the Doem Bang subdistrict perceive climate change primarily through increased heat, straw and stubble burning, and deforestation. Communication about climate change is more effective when using the term "global warming," which is more familiar to farmers. Direct experiences with rising temperatures, drought, and unpredictable rainfall significantly influence their understanding, forcing them to adjust their practices, such as rescheduling fieldwork and managing water resources. Generational differences and the level of community engagement shape these climate perceptions, connecting them with sustainable rice practices. These findings highlight the importance of tailored communication strategies, practical demonstration projects, and supportive policy frameworks to enhance the resilience and sustainability of rice farming.

The research demonstrates that farmers' adoption of sustainable rice cultivation practices in the Doem Bang subdistrict is influenced by a complex interplay of economic, social, and environmental factors, with implications for their perspective on the term "sustainability." The study delved into the economic and social returns of climate action, emphasizing that beyond mere climate perception, tangible benefits such as reduced costs, improved livelihoods, and social cohesion are significant motivators for individuals and communities to engage in climate-friendly practices. By linking climate perception to concrete actions through the TPB framework, this research shows that financial incentives and support mechanisms are essential in lowering the barriers to adoption. Community engagement and social norms are critical in disseminating knowledge and fostering a supportive environment for collective action in Thailand's rice farming context. Perceived Behavioral Control, enhanced by access to resources and training, is crucial in building farmers' confidence in implementing sustainable practices. Acknowledgment of risk management also plays a vital role in this process. The findings underscore the effectiveness of the TPB framework in understanding and influencing farmers' behavior in the context of climate action and sustainable farming practices. By addressing the multifaceted influences of farmers' decisions, the study provides valuable insights for policymakers, extension officers, and other stakeholders in promoting sustainable agriculture. The holistic approach recommended by the study not only promotes the adoption of sustainable practices but also ensures their long-term integration into the community's farming culture.

Unlike static, one-shot processes, the characteristics of ongoing trial-and-error learning by farmers in their rice fields, crop season by crop season, allow for the refinement of scientific understanding, essential for addressing the dynamic nature of climate change. This iterative approach ensures that climate models remain relevant, providing a robust foundation for policy-making and public education. Laboratory-like experiments in rice paddy fields, supported by real-world data, create a feedback loop that enhances the effectiveness of proposed climate solutions. By demonstrating the necessity of ongoing experimentation, this study advocates for sustained investment in climate science to support future informed and adaptive climate policies. In summary, the study illustrates how a comprehensive, iterative approach, grounded in the TPB framework, can effectively promote and sustain adopting climate-smart agricultural practices, ultimately contributing to long-term environmental and economic benefits for farming communities.

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# **CULTIVATING: LIVABILITY THE ROLE OF URBAN AGRICULTURE IN ENHANCING BANGKOK AS A LIVABLE CITY**

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## **Abstract**

Urbanisation poses challenges to urban food and ecological systems due to the rapid growth of population. In response to the swift expansion of urbanisation, many cities are making the pursuit of 'livable cities' a crucial agenda in urban policy. Bangkok is facing these urban challenges and has prioritised livability as its urban agenda. The objective of 'urban livability' recognises the significance of the urban environment and ecology, which can enhance people's health and well-being. Urban agriculture emerges as a potential contributor to urban sustainability and livability. Hence, the study focuses on middle-class urban farms in Bangkok to emphasise beyond urban poverty and highlight middle-class practices as significant contributors to a livable city. This study examines the SAFETist Farm in Bang Mod district of Bangkok as a case study to explore how urban agriculture can enhance Bangkok's livability. Furthermore, the study highlights the crucial role of urban governance in supporting or undermining these initiatives.

**Keywords:** Urban Agriculture, Livable City, Urban Governance, Sustainable Urban Development, Bangkok

## **Introduction**

Bangkok, like many other rapid urbanising cities, faces urban challenges related to sustainability and livability due to the city's growing population. Hence, Bangkok's governor, Mr. Chadchart Sittipunt, has announced plans to transform Bangkok into one of the top 5 most livable cities in the world by 2027 (The Nation, 2023). Urban agriculture emerges as a potential contributor to urban sustainability and livability by enhancing people's health, well-being, and socio-economic development (Dona et al., 2021). Additionally, urban agriculture is associated with urban food and environmental sustainability, contributing to a livable city and food systems (Fuentes, 2015; Alderton et al., 2019; Maye, 2019; Yusuf et al., 2021; Rao et al., 2022).

This study examines the SAFETist Farm in Bang Mod district as a case study to explore how urban agriculture can enhance Bangkok's livability. The objective of this farm mainly focuses on urban food safety while aiming to create sustainable urban resilience as a long-term goal. The farm is considered a middle-class urban farming initiative, which is the primary focus of this study to address a research gap that frequently neglects urban agriculture from the

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middle-class perspective, often viewing it solely as a strategy for urban survival. Moreover, this study examines urban agriculture through the lens of food and ecological systems enhancement for Bangkok residents, which led to a livable city as illustrated by the SAFETist Farm case study. Coupled with Bangkok’s urban governance effectiveness in contributing to the livable city’s goal. Thus, the study also focuses on whether urban governance supports or undermines urban agriculture as a mechanism to achieve the goal of livability.

To summarise, this study illustrates urban agriculture practices among middle-class farmers as a contribution to a livable city through the SAFETist Farm case study. It also examines the roles and practices of urban governance in supporting or undermining urban agriculture to achieve livability. The study concludes by arguing for the integration of urban agriculture as an improvement to Bangkok’s livable city agenda.

### Conceptual Framework

The study utilises three conceptual frameworks to analyse urban agriculture practices and their implications for a livable city, coupled with a focus on urban governance: Livable City, Urban Political Ecology (UPE), and Policy Network Analysis (PNA). Each framework offers valuable insights into the dynamics of urban agriculture, the motivations of middle-class urban agriculture, and the role of urban governance in supporting or hindering the livable city agenda through urban agriculture.

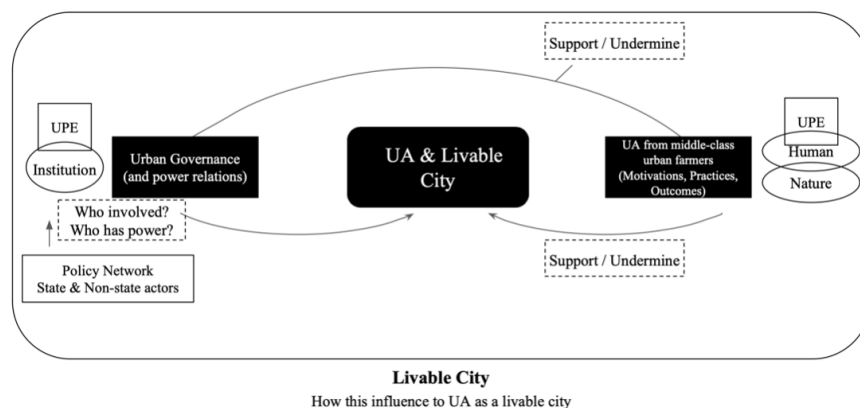


Figure 1: Conceptual Framework

1. **Livable City:** A livable city is a concept of urban design and landscape that is linked to the urban development approach. This framework considers a livable city as a safe and secure place with satisfactory infrastructure and services, along with economic development with environmental concerns (Kaal, 2011). Moreover, the framework also relates to governance effectiveness, which is connected to the relationship between humans and the social environment within urban spaces. The governance should provide a high quality of life for its residents (Kaal, 2011).
2. **Urban Political Ecology (UPE):** The framework links humans, nature, and institutions. Human actions from individuals and institutions impact environmental stability, and the

environment can impact human well-being and city resilience (Rademacher, 2015). UPE illustrates the significance of both human and non-human dynamics in shaping the urban environment. The framework acknowledges that urban nature is not only created by natural processes but also by human activities. This framework provides a lens to understand how urban agriculture can contribute to a livable city by addressing ecological and social challenges through sustainable practices.

3. **Policy Network Analysis (PNA):** PNA is a set of formal institutional and informal connections between governmental and other actors structured within networks (Rhodes, 2006). This framework provides a lens to analyse actors involved in policy-making, determining the power dynamics that affect Bangkok's urban agriculture policies' effectiveness and outcomes. The framework also offers an analysis of policy alignment and policy transformation. Hence, PNA emphasises understanding urban governance that supports or hinders urban agriculture initiatives.

To summarise, integrating these frameworks offers a comprehensive analysis of urban agriculture's potential to contribute to livability in Bangkok. The livable city framework serves as the overarching concept, with UPE and PNA providing additional insights into the socio-ecological and governance dynamics.

## **Methodology**

The study is qualitative research, utilising semi-structured interviews and policy document reviews. To obtain comprehensive findings, data collection involved interviewing 21 participants, as detailed in the table. The analysis was conducted using content analysis, integrating the conceptual frameworks of UPE and PNA. This approach aimed to understand the motivations, practices, and outcomes of urban agriculture while assessing the role of urban governance in supporting or undermining these initiatives within the broader context of creating a livable city.

The research tools include semi-structured interviews, policy and document reviews, and content analysis. The study empirically investigated the role of middle-class urban agriculture initiatives in enhancing Bangkok's livability, focusing on the SAFETist Farm case study. These interviews examined the motivations, practices, and outcomes of middle-class urban agriculture in contributing to a livable city. Bangkok's urban governance effectiveness was assessed through interview and policy review to analyse the policy agenda, implementation, and evaluation. Interviews with government agencies and related stakeholders were also conducted to capture the understanding of urban governance effectiveness and its support or hindrance of urban agriculture practices.

|                          | Actors   | Sampling Size: 21  |
|--------------------------|--|--|
| <b>State Agencies</b>    | <ul style="list-style-type: none"> <li>- BMA (Department of Strategy, Department of Environment, Department of Social Development)</li> <li>- Bang Mod District Officer (Strategy Department)</li> </ul> | <ul style="list-style-type: none"> <li>- BMA Officer: 5</li> <li>- District officer: 1</li> </ul>                  |
| <b>NGOs</b>              | <ul style="list-style-type: none"> <li>- Urban Studies Lab</li> <li>- Thai City Farm project</li> </ul>  | <ul style="list-style-type: none"> <li>- Urban Studies Lab: 2</li> <li>- Thai City Farm project: 1</li> </ul>      |
| <b>Farm Members</b>      | <ul style="list-style-type: none"> <li>- Community (Vegetable Basket Subscriber)</li> <li>- Bang Mod Community Members</li> </ul>  | <ul style="list-style-type: none"> <li>- Vegetable Basket Subscriber: 3</li> <li>- Community Members: 3</li> </ul> |
| <b>Social Enterprise</b> | <ul style="list-style-type: none"> <li>- SAFETist Co-founders</li> <li>- SAFETist Officers</li> </ul>  | <ul style="list-style-type: none"> <li>- Farm Co-founder: 4</li> <li>- Farm Officer: 2</li> </ul>                  |

Table 2: Interview List

## 1. Findings: Institutional Dynamics toward Urban Agriculture in Bangkok

The findings illustrate the institutional support and challenges for urban agriculture as a contribution to Bangkok's livability. It highlights the support, challenges, and frictions within urban governance. The study examines policies and initiatives that implemented by the Bangkok Metropolitan Administration (BMA) and related stakeholders. Hence, the study collected and analysed data through policy document reviews related to urban agriculture and livability, coupled with interview data.

### 1.1 Supporting Initiatives

**Policies and Regulations:** Bangkok's governance has decentralised power to various departments responsible for urban agriculture initiatives. The Department of Environment emphasises urban agriculture as part of increasing urban green space initiatives. The department promotes environmental awareness to enhance urban ecosystems and reduce urban pollution. The Department of Strategy and Evaluation highlights food safety through the 'Bangkok G' standard, encouraging urban farmers to register for this certification as a tool to improve urban residents' health and well-being. Furthermore, the 'Farmer Market' initiative connects urban farmers with consumers, promoting safe food production and distribution.

**Resource Allocation:** The BMA collaborates with NGOs to support the edible garden initiative, which promotes safe food accessibility and the concept of self-produced vegetables that benefit the sustainability of urban food systems. The BMA also encourages the innovative farm model to address space limitations and plans events to elevate product standards and market opportunities. Regarding human capability development, the BMA has collaborated with the Research Training Center to provide official staff training on urban livability. Moreover, at the district level, the BMA provides planting seeds and subsidies to urban farms considered vulnerable or low-income groups.

**Urban Farms Collaboration:** Collaboration with urban farms and non-state agencies is crucial for evaluating how effectively Bangkok's urban governance recognises and supports urban agriculture. Initiatives like the Farmer Market and community gardens, supported by NGOs,

aim to increase safe food access and promote sustainable practices. These collaborations help create models for urban agriculture, fostering community engagement and sustainability.

## **1.2 Undermining Factors**

**Limited Scope and Priority:** Urban agriculture is often prioritised as a secondary and non-urgent issue in terms of urban development, and it is more focused on vulnerable groups. Hence, there is a need for more comprehensive policies to address the varied requirements of urban agriculture, as direct enforcement to promote urban agriculture has not been effectively implemented by the central government. Furthermore, middle-class urban farms could benefit from additional support, as current prioritisation focuses more on urban poverty and vulnerable urban farmers.

**Power and Collaboration Issues:** Despite several coordinated efforts across sectors and stakeholders on urban agriculture initiatives, power dynamics and a top-down approach present challenges to effective collaboration. Furthermore, the BMA could enhance its authority to oversee all urban agriculture activities in Bangkok. The decentralisation of power, exercised through departmental agencies, might create unaligned policy implementation. Hence, a complicated hierarchy in different departments leads to unmatched missions and actions, reducing urban agriculture effectiveness.

**Spaces and Resources Constraints:** The availability of space and resources is recognised as a significant constraint for urban agriculture initiatives for all classes in Bangkok. When the government provides land or support land accessibility for urban agriculture, it tends to focus more on creating community gardens rather than actively promoting urban farms. Hence, support for middle-class urban farmers is often overlooked due to assumptions about land and financial resource availability.

## **1.3 Frictions Factors**

**External Factors:** Bangkok's urban agriculture encounters significant challenges from external factors, including environmental conditions such as water scarcity and salty water affecting urban farming. Moreover, societal attitudes play a crucial role, as many people still perceive urban farming as an activity primarily undertaken by the elderly, which remains under-prioritised.

**Policy and Operational Challenges:** Limited human resources in both quantity and quality impede the success of urban agriculture and livability policies. The lack of strong objectives for urban agriculture and livability, fragmented efforts, and inconsistent indicators across different departments exacerbate these challenges.

**Community and Resources Issues:** Community engagement and resource availability are crucial. The community garden often focuses on vulnerable groups, neglecting the middle-class urban farms that also need support. Low awareness of food safety and the benefits of urban agriculture among residents further hinders progress.



## **2. Findings: Middle-class urban farmers' contribution toward the livable city (SAFETist Farm case study)**

This chapter illustrates a case study on SAFETist Farm, an urban agriculture initiative in Bangkok established by a group of people who share motivations to improve city resilience and people's well-being through food and environmental enhancement. The findings illustrate an analysis of SAFETist Farm, highlighting its motivations, practices, and outcomes in contributing to Bangkok's livability.

### **2.1 Motivations**

***Ensuring Food Safety:*** The primary motivation for SAFETist Farm is to provide safe, chemical-free food to urban residents, driven by awareness of health risks associated with contaminated food. The COVID-19 pandemic highlighted the vulnerability of urban food systems, reinforcing the need for self-reliance in food production.

***Healthier Eating Lifestyles:*** SAFETist Farm aims to promote healthier eating habits by discouraging junk food consumption and encouraging the consumption of fresh and safe vegetables. The farm provides educational workshops to foster sustainable food choices and urban food system awareness.

***Community Engagement and Development:*** The farm focuses on community-based approaches, addressing both middle-class and vulnerable groups. It fosters community cohesion through workshops, educational programs, and collaborations with nearby schools and organisations.

### **2.2 Practices**

***Sustainable Farming Methods:*** The farm utilises non-chemical farming methods including bio-extract soil, chemical-free pesticides, and non-chemical seeds, to ensure safe food production. Thai City Farm has supported the agricultural knowledge.

***Community Engagement Activities:*** SAFETist Farm provides various activities that require community engagement. For instance, the Vegetable Basket subscription model distributes fresh and chemical-free vegetables to affordable urban residents, promoting food biodiversity and sustainable practices. The farm also facilitates farm visits, workshops, and educational activities, fostering a connection with the community.

***Convenience and Accessibility:*** The farm aims to create the community's safe food hub, starting with the Vegetable Basket as a food accessibility initiative for nearby residents. SAFETist Farm fosters home-grown vegetables, encouraging urban residents to produce their food and enhance urban sustainability.

### **2.3 Outcomes**

***Improved Access to Safe Food:*** SAFETist Farm improves access to safe, chemical-free food, promoting healthier eating habits and enhancing urban food systems. The farm engages with

middle-class and vulnerable groups to promote the benefits of self-produced vegetables, fostering self-reliance and urban sustainability.

**Greater Community Cohesion:** The farm attempts to create community cohesion through urban agriculture-related activities, offering practical skills and knowledge that empower residents to take control of their food sources. Moreover, this form of community cohesion can lead to edible green spaces in the future. By engaging residents and promoting home-grown food and sustainable practices, SAFETist lays the foundation for transforming unutilised spaces into productive green spaces.

**Health Benefits:** SAFETist Farm contributes to community resilience and well-being by fostering healthier eating habits, positively affecting people's health. Educational activities targeting younger generations raise awareness about the benefits of safe food, fostering a healthier urban population.

**Environmental Sustainability:** The farm enhances environmental sustainability and the urban ecosystem through green space creation, providing spaces for urban residents to reconnect with nature. Hence, it fosters the importance of environmental stewardship and contributes to a sustainable and healthier urban ecosystem.

## **Analysis and Discussion**

### ***Urban Agriculture's Contribution to Bangkok's Livability: The case study of SAFETist Farm***

Urban agriculture significantly contributes to Bangkok's livability in *environmental sustainability, food safety, health, community engagement, and economic resilience*. Initiatives like SAFETist Farm illustrate how transforming unused spaces into green areas fosters biodiversity and community cohesion, aligning with policies aimed at increasing green spaces. Urban agriculture ensures food safety by providing non-chemical food and promoting food safety awareness, aligning with the Bangkok G standard. Health benefits include promoting healthier eating habits and reducing diet-related diseases through access to safe food. Community engagement is strengthened through workshops and farm visits, while economic resilience is supported by empowering local agricultural products and the local economy through initiatives like the Farmer Market.

Middle-class urban farmers like SAFETist Farm play a significant role in these efforts. They contribute to environmental sustainability by creating green spaces, fostering community connections, and sharing sustainable agricultural practices. The farm promotes environmental awareness and urban sustainability through community workshops. The Vegetable Basket model provides non-chemical food, raises safe food awareness, and promotes healthier eating habits. The farm provides green and educational spaces that reconnect people with nature and strengthen community cohesion. They also foster economic resilience by supporting self-reliance and creating job opportunities. Middle-class urban farms like the SAFETist serve as models for future urban agriculture, advocating for urban agriculture's policy development and

inspiring active citizenship. Integrating these practices with Bangkok's policies can significantly enhance the city's livability.

### ***Power Relations and Institutional Support in Bangkok's Urban Agriculture***

Power dynamics in Bangkok's urban agriculture are influenced by the governor's vision, which prioritises urban environmental sustainability and livability. However, the BMA faces challenges due to its complex hierarchy, centralised decision-making, and top-down approach, which undermine policy implementation. The BMA's limited authority across districts leads to inconsistent policy enforcement. More substantial policy alignment is needed due to diverse missions and objectives among different departments and agencies. The centralisation of decision-making excludes critical stakeholders in urban agriculture, creating non-inclusive policies. Collaborations with NGOs help bridge gaps and foster community connections. These partnerships support community initiatives and provide training on livable city indicators. However, the practical implementation of these policies remains limited due to budget and resource constraints.

The BMA provides policy initiatives that emphasise green spaces and food safety enhancement but do not yet include explicit goals for integrating urban agriculture into livability strategies. Enhancing institutional support requires a more inclusive approach with solid goals for urban agriculture's role in creating a livable city. Greater engagement of stakeholders in policy-making and prioritising urban agriculture benefits are crucial for achieving Bangkok's livability objectives.

### **Conclusion**

The study addresses urbanisation challenges in Bangkok, emphasising urban agriculture as a solution to enhance urban sustainability and livability. The study uses the case of SAFETist Farm to highlight the contributions of middle-class urban agriculture initiatives in improving food safety, health, community engagement, economic resilience, and environmental sustainability.

The findings reveal that middle-class urban farm initiatives can significantly contribute toward livability through their practices. These contributions include improved food accessibility, community cohesion, health benefits, and environmental sustainability. These findings demonstrate the potential and capability of middle-class initiatives and the benefits urban agriculture can offer to create a livable city, focusing on people's well-being and urban resilience.

While the BMA has implemented several policies related to urban agriculture, these policies often vaguely acknowledge the broader benefits of urban agriculture or its potential to enhance city livability. The policies still need further development to fully enhance urban agriculture's potential in enhancing livability. However, these policies indirectly benefit urban agriculture, indicating that the state is making efforts in this area.

Furthermore, integrating the livable city framework, encompassing UPE and PNA, explores the interconnectedness of humans, nature, and institutions in achieving urban livability. It highlights the reconnection with nature through urban agriculture to enhance well-being and resilience. Effective collaboration among diverse stakeholders is essential to maximise urban agriculture's benefits and achieve a livable city.

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# THAILAND'S DRAFT INDIGENOUS RIGHTS BILL: INDIGENOUS LAND RIGHTS IN THE CONTEXT OF ENVIRONMENTAL CONSERVATION DISCOURSE

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## Abstract:

The issues of Indigenous rights and land disputes have persisted in Thailand since the introduction of environmental laws in the 1960s, and national security issues were prioritized. Currently, Thailand is at a watershed moment as five versions of the Draft Indigenous Rights Bill are under consideration. Accordingly, this study examines the dynamics of ideological contestations and policy networks involved in the drafting process to analyze the agenda-setting of five versions of the Bill. The study applies a hybrid conceptual framework, integrating the Multiple Streams Framework (MSF), Policy Network Analysis (PNA), the Powers of Exclusion, and Subaltern Counterpublics. It aims to dissect the roles of policy actors and ideological divergent in shaping the agenda-setting and potential policy outcomes within the Bill. This qualitative study utilizes in-depth interviews with key policy actors and document reviews.

The research contends that the issues have gained recognition as emergent issues through the advocacy of policy networks within the problem stream. Furthermore, the policy stream is where the proposed solutions to the problems, the Draft Bills, have been developed by the different policy networks, including government agencies and the indigenous networks. Arguably, the interactions between the policy networks have involved the power dynamics through the lens of the powers of exclusion to ensure that their proposed solutions will be adopted as the final Bill. Lastly, the study emphasizes the roles of Members of Parliament, bureaucrats, and legislators in enabling and hindering the passage of the Draft Bills. By leveraging the national mood, pressure group campaigns, and political turnover, these actors shape the political stream, thus opening the policy window for the Bill's consideration.

**Keywords:** Indigenous Rights, Agenda Setting, Environmental Conservation, Ideological Contestation, Draft Indigenous Rights Bill

## Introduction

In Thailand, approximately 70 ethnic groups account for 6.1 million people nationwide (The Active, 2021). Despite their significant presence, the Thai government has yet to officially recognize their Indigenous status, referring to them instead as “ethnic groups.” Furthermore, indigenous communities often face challenges in having their customary land rights recognized. These rights face stringent environmental conservation laws, which have

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aimed at increasing forestlands since the 1960s, resulting in frequent land disputes (Onprom, 2013; Vandergeest, 2003).

To address these challenges, Thailand currently has five Draft Indigenous Rights Bills.<sup>2</sup> under consideration by Parliament (given the longstanding contesting ideologies related to Indigenous rights, environmental conservation, and national security), the drafting process of these Bills is particularly noteworthy. Thus, this paper examines the agenda-setting process of the Draft Indigenous Rights Bill within the context of contesting ideologies between the policy networks. Overall, this study aims to provide a deeper understanding of the power dynamics that govern the recognition and implementation of indigenous rights in Thailand.

### **Research Methodology**

This study employs a qualitative research methodology, primarily utilizing in-depth, semi-structured interviews with key informants directly involved in the drafting process of the Indigenous Rights Bill. These informants include indigenous representatives, civil society and NGO members, government officials, and politicians. Secondary data sources include official documents, news articles, and reports. Data analysis involves coding and categorizing information to reflect critical themes related to power dynamics, ideological contestation, and policy processes.

### **Conceptual Framework**

This study applies a hybrid conceptual framework to capture the dynamics of ideological contestation and interactions of the policy actors. The theories include:

(1) **Kingdon's Multiple Stream Framework (MSF)** serves as the primary conceptual framework for analyzing the agenda-setting of the Draft Bill. The MSF provides guidelines to examine how the convergence of problems, policies, and political streams allows Indigenous rights to enter the public policy arena.

(2) **Policy Network Analysis (PNA)** is integrated to examine the relationships between various policy actors, including government agencies, NGOs, and indigenous networks. It highlights the influence of their ideologies and resources—integration of PNA zooms in on the power relations of policy actors within the policy stream.

(3) **Powers of Exclusion** framework examines exclusionary processes affecting land rights in Southeast Asia, focusing on regulation, force, market, and legitimation. This study emphasizes the powers of regulation and legitimation, as they are most prominent in the research. It also analyzes the strategies used by policy networks to negotiate policy outcomes.

(4) **Subaltern Counterpublics** are integrated into analyzing the parallel discursive arenas where marginalized groups (indigenous networks) articulate and contest dominant ideologies, contributing to policy debates and identity formation.

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<sup>2</sup> Draft Indigenous Rights Bill is a collective name generally refers to the different drafts namely, (1) Draft Bill on the Council of Indigenous Peoples of Thailand – submitted by the CIPT, (2) Draft Bill on Promotion and Protection of the Ethnic Groups and Indigenous Peoples – submitted by MFP, (3) Draft Bill on Promotion and Protection of the Ethnic Groups – submitted by Phue Thai Party, (4) Draft Bill on Protection and Promotion of the Ethnic Groups and Indigenous Peoples – submitted by P-Move, and (5) Draft Bill on Promotion and Protection of the Ethnic Groups – submitted by SAC (government draft)

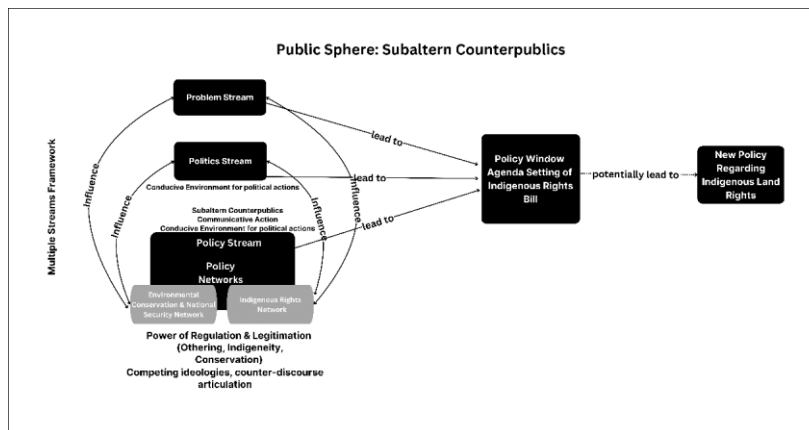


Figure 1: Conceptual Framework

## Findings and Analysis

### Problem Stream: Contesting Ideologies and Discourses in Problem Framing

The problem stream consists of conditions the government views as urgent and needs immediate attention and action (Kingdon, 2003; Thirisakul, 2009 ). Despite the persistence of issues such as the loss of ancestral lands due to conflicts with environmental laws and the loss of cultural identities, social movement and advocacy campaigns did not effectively lead to policy changes (N. Earkarnna, personal communication, April 2024).

In response, the Council of Indigenous Peoples of Thailand (CIPT) initiated the Draft Bill on the Council of the Indigenous Peoples of Thailand in 2012. The approach of this Bill is to ensure the participation of Indigenous representatives in the decision-making process and gain the recognition of Indigenous identity based on the principles of UNDRIP (Kesemanee, 2023). Notably, this Bill is the first draft aimed at gaining problem recognition in the formal policy landscape. It frames the issues through the lens of social justice and the international Indigenous movement.

Meanwhile, the government has also attempted to address indigenous land rights through the 2010 Cabinet Resolutions, which aim to resolve land disputes and promote indigenous rights (Thammasena, 2023). The prominent aspect of the resolutions is the establishment of the Special Cultural Zone, which allows indigenous communities to practice their traditional practices, such as rotational farming, demonstrating the compatibility of indigenous agricultural methods with environmental conservation goals (Cabinet, 2010). However, implementation has been uneven as the Cabinet Resolutions do not have law enforcement mechanisms. Thus, government agencies such as the Ministry of Natural Resources and Environment (MNRE) often comply with the existing laws, prolonging the disputes over land rights and conservation efforts. Accordingly, the Sirindhorn Anthropology Centre (SAC), as the agency responsible for implementing these resolutions, has acknowledged its limitations. The SAC has worked with academia and indigenous communities to draft a law that elevates the legal status of Cabinet Resolutions.

However, the SAC must consider various opinions and concerns in the draft bill, including those from the Ministry of Foreign Affairs (MFA) and the National Security Council



(NSC), which prefer the term “ethnic groups” over “indigenous peoples” due to national security priorities. During the ministerial hearings, the MNRE insisted that the new policies comply with existing environmental laws, such as the National Park Act 2019 and the Wildlife Protection and Conservation Act 2019 (SAC, 2021). Due to the agencies’ concerns, the government draft removed the term indigenous peoples and aligned the environmental management provision with the existing laws (A. Thammasena, personal communication, April 18, 2024).

On the other hand, civil society, led by the People's Movement for a Just Society (P-Move), has drafted a "people's version" of the Draft Bill, acknowledging the limitations of the government draft (S. Thnoghneid, personal communication, April 8, 2024). Additionally, the Move Forward Party (MFP) and the Thai Party submitted their drafts to the Parliament, indicating growing momentum and political support for problem recognition.

Ultimately, the contested ideologies and discourses of national security, environmental conservation, and indigenous rights shape the problem framing of the Draft Indigenous Rights Bill. These narratives influence legislative discussions and result in a bill that seeks to balance conservation priorities recognizing Indigenous cultural rights and identity. The challenges faced by Indigenous advocacy networks are significant, as entrenched conservation ideologies and national security concerns pose obstacles.

### **Policy Stream: Dynamics in the Policymaking Process and Ideological Alignment of Policy Networks**

The policymaking process of the Draft Indigenous Rights Bill is highly dynamic and reflects the complexity of aligning diverse ideologies. According to Kingdon, the policy stream is where different solutions are developed, debated, and refined (2003). In this context, the process has been marked by negotiation efforts. Remarkably, the SAC’s proposal aimed to recognize Indigenous identity and resolve land disputes but faced significant pushback from government agencies that prioritized national security, environmental conservation, and regulatory compliance. Consequently, discussions between agencies led to several modifications and removing essential provisions. These modifications demonstrate the power relations at the ministerial level. Thus, people’s version of the draft also represents ideological divergence and power dynamics within the policy stream since this draft seeks to present a Bill that genuinely represents indigenous needs and effectively safeguards the rights of indigenous communities (S. Thnoghneid, personal communication, April 8, 2024).

Furthermore, the discussions and debates among policy actors illustrate the formation of policy networks, as conceptualized by the PNA framework. These interactions occur through parliamentary meetings, ministerial meetings, and public forums. While competing to influence the outcomes of the Bill, these actors also strengthen their networks based on shared ideologies and values toward achieving policy goals.

For instance, government agencies such as MNRE leverage their regulatory power and discourse of public interest to shape the Bill's content, particularly regarding the designation of protected cultural zones. They argue that maintaining the integrity of protected areas is essential for upholding national interests and protecting public welfare. Similarly, the

MFA and the NSC utilize their regulatory power to interpret international frameworks, such as UNDRIP and national security concerns that influence the government draft. Their strategy ensures that recognizing indigenous peoples aligns with Thailand’s international obligations while safeguarding national security.

On the other hand, indigenous advocacy networks seek legitimation by aligning their demands with international human rights norms such as UNDRIP. They advocate for provisions recognizing Indigenous identity, cultural rights, and traditional practices. Moreover, they emphasize the customary claims to land, which are essential for their life. By leveraging international standards and norms, they seek to strengthen their claims and push for policy solutions that reflect their needs.

Additionally, the coalition of alliances among like-minded entities, such as SAC, P-Move, IMPECT, and CIPT, showcases efforts to create a more inclusive policy that genuinely addresses the needs of the Indigenous community. These alliances work together, sometimes through informal channels, to ensure that Indigenous peoples' voices are heard and that their rights are effectively protected in the legislation. As Sakda Seanmi has expressed,

*“The networks of drafting the bill are familiar to one another. We also work together to promote the Special Cultural Zones”* (S. Seanmi, personal communication, April 22, 2024).

The familiarity among cross-sectoral policy actors reveals the political nature of the policy stream. In this environment, advocacy networks continuously develop and push alternative proposals to counterbalance the state’s regulatory power. At the same time, this interaction ensures that the policymaking process remains contested and open to diverse influences, which reflects the complexities of achieving policy or legislative consensus.

| <b>Policy Networks</b>                           | <b>Actors</b>  | <b>Policy Goals</b>   |
|--|--|---|
| National Security and Environmental Conservation | MFA, MNRE, NSC, DSDW<br>(For the DSDW, in the aspect of Indigenous identity while remaining reluctant in the aspect of environmental conservation, especially on land disputes among the ethnic villagers) | Maintain national security, protect the public interest, and ensure environmental conservation while balancing considering cultural rights and related international frameworks that Thailand is a member state (e.g., ICERD) |
| Indigenous Rights Advocacy                       | CIPT, IMPECT, P-Move, Sirindhorn Anthropology Centre, MFP  | Push for the full recognition of Indigenous identity in Thailand in line with UNDRIP and ICERD, promote Indigenous stewardships in environmental management   |

*Table 1: Ideological Alignment of Policy Networks*

Overall, the process of discussion and negotiation throughout drafting the Bills has demonstrated how different policy networks with divergent interests and ideologies interact to influence policy outcomes. In the policy stream, the policy networks often employ strategies, including investing resources and forming coalitions based on their shared ideologies and beliefs to ensure that they can push their solutions onto the decision-making table (Rhodes, 2008), specifically the parliamentary committee. This strategy is evident among the indigenous rights advocate network. Since establishing the Special Cultural Zone in the 2010 Cabinet Resolutions, civil society, indigenous networks, and government agencies such as SAC and DSDW have developed ties based on their shared aspiration to improve the situation of indigenous communities in Thailand.

However, it is important to note that national security and environmental conservation networks have exerted considerable influence over the Bill through their regulatory power and alignment with constitutional principles and relevant legislative measures. The regulatory power employed by government agencies like the MNRE, the MFA, and the NSC demonstrates their ability to shape the Bill to align with state ideology, emphasizing national security and environmental conservation.

### **Political Stream: Political Climate and the Roles of Political Actors**

The political conditions in Thailand have been fostering the environment for the introduction of the Draft Bill. These conditions can be traced back to the advocacy efforts of the Indigenous network in 2007 when the UNDRIP was introduced (Baird et al., 2017). Furthermore, the political transition in 2014 due to the military coup and the new constitution provided opportunities for Indigenous networks to mobilize and gain more justification for proposing the Bill (Thammasena, 2023). Notably, the new constitution, particularly Article 70, and the national reform agenda on social issues after the coup have been influenced by the advocacy of Indigenous groups, including the networks of Karen and Choa Lay and the CIPT. The outcome of their advocacy during the political transition is evident in Article 70 of the National Reform Plan of 2018 (Thammasena, 2023).

As time progressed, a new political actor emerged – the Move Forward Party (MFP), embracing identity politics and a progressive political agenda, including introducing representatives of Indigenous peoples and ethnic groups to have a direct voice in the Parliament. This emergence adds more dynamics to the political situation of the Draft Indigenous Rights Bill. Coupled with the recognition of indigenous issues by non-indigenous MPs from the Pheu Thai Party, it has helped these issues become more salient in recent years (M. Keereepuwadol, personal communication, March 28, 2024).

Additionally, this study contends that persistent advocacy by Indigenous networks and strategic support from political parties like the MFP and the Thai Party have been instrumental in bringing the Bill onto the government agenda. The actions taken in Parliament, such as the efforts of the standing committee, have been significantly influenced by these advocacy efforts, which contribute to the opening of the policy window. Moreover, the proposals of draft bills by political parties like the MFP and Pheu Thai Party demonstrate the increasing significance of these issues after nearly two decades of advocacy.

On the other hand, bureaucrats also play a critical role in the political stream (Thirasirikul, 2020). This study argues that regulatory power has profoundly influenced power relations while drafting the Bill. This influence also has implications for politicians. Since bureaucrats are practitioners and experts in their field, they often have leverage through their regulatory authority to shape the outcomes of legislative actions (L. Buiditersakul, personal communication, March 21, 2024).

Ultimately, this chapter concludes that the politics stream is a critical domain in the legislative journey of the Draft Indigenous Rights Bill. It is expected that the successful passage of the Draft Bill hinges on navigating these political dynamics and balancing competing interests within Thailand's policy landscape. The analysis also highlights the importance of political will, the influence of bureaucratic institutions, and the power of organized advocacy in coupling the problem stream and policy stream, thereby opening the policy window.

## **Conclusion**

This study argues that the ideological contestation among policy networks, including the national security and environmental conservation network and the Indigenous rights advocacy network, has profoundly influenced and shaped the agenda-setting of Thailand's Draft Indigenous Rights Bill. As the Indigenous rights advocacy network seeks to gain the recognition of Indigenous identity and promote Indigenous land rights from cultural aspects, they encounter friction from the national security and environmental conservation network. The interaction between different policy networks suggests the power dynamics at play during the agenda-setting process of the draft Bill.

The study concludes that competing ideologies, policy networks, and political dynamics heavily influence the legislative process of the Draft Indigenous Rights Bill in Thailand. While environmental conservation and national interest remain the dominant discourse, there is a growing recognition of the need to integrate Indigenous rights from a cultural aspect into Thailand's policy area. Subtly, this study raises the question of whether the rights of indigenous peoples and ethnic groups can be fully recognized under the prevailing ideologies of national security concern and environmental conservation.

## **Recommendations for Future Research**

Future research should explore the following areas:

(1) As the draft bill is under consideration, future research could investigate the roles of Members of Parliament (MPs) and Senators in the progression and deliberation of the draft Bill. This condition should include an analysis of their debates, voting patterns, and the political dynamics within parliamentary committees.

(2) From the context of the Community Forest Bill to the development of the Draft Indigenous Rights Bill, it is crucial to conduct a comparative study examining paradigm changes in Indigenous rights and environmental conservation approach in Thailand.

(3) Future research could benefit from utilizing the hybrid conceptual framework employed in this study to examine agenda-setting and legislative formulation in other public

policy contexts. This approach can highlight the political nature of policymaking and the impact of prevailing discourses and ideologies.

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# PHILIPPINE TEACHERS' PERCEPTIONS OF HUMAN RIGHTS EDUCATION (HRE): TWO CASE STUDIES OF THE K-12 CURRICULUM

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## Abstract

Philippine Constitution (1987)<sup>2</sup> states Human Rights Education (HRE) deliverance. This study investigated how educators understood Human Rights (HR) and HRE and its influence on their *pedagogy, content, and values appropriation*. It ascertains the correlation between *content, pedagogy, and HR practice and values formation*. It addressed three reasons for its timeliness: deficiency in publications regarding the integration of HRE in the new K–12 curriculum, the lack of studies addressing teachers' perceptions of HRE in the Philippine context, and a study that uses the United Nations Definition of Human Rights Education and Training (UNDHRET). In Case 1 (Laguna), six finished the questionnaire, and five were interviewed. In Case 2 (Ilocos Norte): seventeen responded, and five were interviewed. Both schools are state-administered, and many of the teachers support human rights but are unfamiliar with HRE. Mainly due to a lack of HRE- training and directives to integrate HRE *content* into certain course subjects in the K–12 curriculum. Case 1 has intuitive and history-based HRE content, whereas Case 2 has none. Problems revealed were the inadequacy of HRE teacher training, the unfamiliarity with the Commission on Human Rights (CHR)'s mandate, and the lack of an enabling law for HRE. Both institutions have internalized values for *the rule of law, accountability*, and the concept of *duty-bearer*, reflected in the school's protocol for bullying. A few predominant values appropriated were *inclusivity and accountability*.

**Keywords:** K-12, human rights, UNDHRET, human rights education, teachers, perceptions, liberal democracy

## Introduction

This research investigated teachers' perceptions, influencing how they make decisions on three levels: **first**, on knowledge—the inclusion or exclusion of HRE content; **second**, on pedagogy—the application of human rights principles in teaching; **lastly**, on attitude—does content and/ or pedagogy inspire empathy and/or liberal principles of democracy?

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<sup>2</sup> HRE has strong foundations and support from 'Article II: State Policies in section 17 and Article 13, section 17, paragraph 5 (Salao and Bernas, 2016, pp. 4-5 and p. 83).

This paper focused on the two layers, content and values appropriation, but it also showed an overlapping of human rights practice, and values appropriation.

After the 1986 Revolution, the commitment to human rights was reinforced through President Aquino's Executive Order No. 27, or the "Education to Maximize Respect for Human Rights"(Luistro, 2014). Hence, the Department of Education Culture and Sports, through Order No. 61, series of 1987, focused on the "Inclusion of the Study of Human Rights and Accompanying Responsibilities in the Course Curricula at All Levels" (Luistro, 2014). This Order integrates human rights into primary, secondary, and tertiary school courses, particularly in Social Studies and Values Education. However, this was issued more than three decades ago. Although some reforms in educational systems were done before 2016 to improve human rights education under the revised and current secondary school curriculum (Government of the Philippines, 2012), there continue to be significant gaps in implementation and research. In coordination with the Department of Education (DepEd), CHR is involved in teaching the value of human rights across subject areas through its core project of developing lesson plans suitable for Grades 1 to 10 (Philippines. Department of Education, 2016). Yet, all teachers from both schools are unaware of CHR's mandate, which is a basic HRE infrastructure. Moreover, both schools have not received new circulars or directives from DepEd to address HRE. There were broader studies that involved the police, the military, and a sample from the formal education sector, but this was before the K-12 was implemented (Fernandez and Brillantes, 2014). This study showed misconceptions about human rights and limited teacher training. Moreover, when it came to teachers' perceptions of HRE in the Philippine context, the available research is lacking. This study addressed these gaps by employing the United Nations Definition of Human Rights Education and Training (UNDHRET) as a framework. UNDHRET's Article 2(2) categorization of HRE gives a clear framework for states to ensure that domestic HRE is in alignment with international standards, which will allow for comparative analysis with other educational systems for future research (Struthers, 2016, p. 61).

## Concept Framework

UNDHRET's article 2 subparagraph 2 encompasses the most comprehensive definition of HRE to date. HRE is evaluated in three layers. The first is **knowledge or course content**, which is labeled as "about" human rights. In this first layer, the teachers are the messengers and sifters of content, and the students, the receivers. While teachers make decisions on what to include in lesson plans, allowing for some discretion, the message is referred to as being delivered "through" human rights. It answers **how course content is taught** and classroom management is done (Struthers, 2014, pp. 56-61). A second layer of "through" enables appropriate and dignified behavior to permeate into everyday life and the acknowledgment of the equal rights of others. The third layer deals with **attitude or values formation**. UNDHRET identifies it as "for" human rights, wherein teachers and learners become more active in classroom management and nation or community building. They produce activities or spaces within their classrooms and school organizations that protect and promote human rights causes. Even though the third layer is sometimes hidden within the first two layers and might not be immediately apparent, it is worth knowing. The nearest possible empirical manner by which we can measure the third layer is by asking the teachers how they perceive the attitude of their students. Likewise, mere inclusion or exclusion of HRE in the course content, as distilled by the teachers, and measured in the first layer, can indicate how these teachers value human rights and HRE. Among the three layers, the third layer is the dependent variable. Values ("for") for human



rights can be formed when there is existing knowledge (“about”). Likewise, this belief or knowledge should manifest in pedagogy or practice (“through”).

## Respondents

| Case I   | Case II   |
|--|---|
| 1. CT – Chemistry Teacher                      | 1. CITT-Computer Information Technology Teacher |
| 2. Econ. T- Economics Teacher                  | 2. MT- Math Teacher                             |
| 3. LT- Filipino Language Teacher               | 3. ST- Science Teacher                          |
| 4. MLT- Media and Information Literacy Teacher | 4. SST-Social Science Teacher                   |
| 5. Soc. T- Contemporary Issues Teacher         | 5. ET- English Teacher                          |

Figure SEQ Figure \\* ARABIC 1:List of interviewees.

All the respondents that took part in the interviews have individual perceptions that many not necessarily reflect the whole institution, from which they belong.

### “ABOUT”

Case 1 conducts trainings, and seminars that are human rights related, and historically framed. Its presence is not sustainable because there is no enacting law passed, that would have aided the Department of Education (DepEd) and Commission on Human Rights (CHR) in executing an annual budget for HRE, as generated by the congress, who holds “the power of the purse” (Agpalo, 2003, pp. 3-10). Therefore, there is no directive from the school to conduct capacity-building seminars to create HRE materials.

Case 1’s “content” is HR-related, with strong leanings towards HR causes, but not one, with human rights as its focal point. There is no HRE content nor HR-related content in Case 2. There are three reasons for its exclusion: 1. Human Capital Deficit, 2. Human Capacity Deficit, and 3. Structural Deficit. However, the main reason for the respondents not having any HRE-related content in Case 2, is that they do not hold a collective memory of the Martial Law years, which could be a starting point for delivering HRE.

ICTT volunteered an <sup>3</sup>*instructional design* and presented ‘The 10 Commandments of the Ethics of Computer’. The only commandment mentioned in the interview was “not coveting other people’s gadgets or computers”; no ethical issue was written or mentioned, just mere enumerations of ICT jargon. The learning goals were not designed to cater to any specific cognitive domain or affective domain. Upon further probing, it was revealed that there was no chance to master the content because of the overwhelming work needed to prepare for five to six-course subjects per week. This is the **first reason** for HRE’s exclusion: the issue of teachers being overloaded and overwhelmed with work, a **human capital issue**, because of the deficit of number of teachers to cater to all learning goals. ST corroborates this sentiment by adding that the curriculum is crowded, with too many competency goals imposed on teachers. SST raised the difficulty of integrating HRE into the course subjects and cites; for instance, in Mathematics, it would be difficult to include HRE in the lesson plans. However,

<sup>3</sup> ID (Instructional Design)- lesson plans in common parlance (Sana et al., 2013, pp. 67-86).

Case 1 negates this opinion because it conducted a seminar incorporating HRE-related content in unlikely course subjects like Math and the Natural Sciences. This is the **second reason** for HRE's exclusion: the need for more training to address human capacity issues.

Case 1 has conducted seminars with clear indications that they hold strong leanings toward HRE-related content. One was a seminar for teachers on how to incorporate the teachings of the martial law years into Math and Sciences. Another was given to the students in 2019, which was also during the martial law years. Soc.T said that both seminars included human rights violations like denial of proper trial, unjust killings, and media blackouts. Some of the current Philippine social ills are long-term impacts of the regime, among others "economic inflation, country's debts, agricultural pests, historical revisionism, which lead to the eventual re-election of the dictator's son as president." Soc. T refers to Filipinos' problems in obtaining basic human rights to food and shelter as issues that can be traced to the dictatorship. These topics are HRE-related and indicate a strong value for ensuring that collective memory of the dictatorship is historically accurate.

The **third reason** for HRE's exclusion in Case 2, and why Case 1's content being contentious, is the issue on **structural impediments** to HRE. CHR was tasked to continue human rights education and research, and yet, it does not have the budget nor the wide reach of <sup>4</sup>DepEd because there is no enabling law. For a law to be passed, political will is needed from the president. This is a matter of great strife in Philippine politics because the incumbent president is the son of the dictator Marcos Sr., and the Vice-president was the secretary of the Department of Education for the first two years of Marcos Jr.'s presidency. She is also the daughter of ex-President Duterte. Both have been named in the <sup>5</sup>ICC, as people of interest for human rights violations during the 'War on Drugs' (Tordesillas, 2023; Human Rights Watch, 2023). Lastly, the two seminars, of Case 1 and its HRE-related content in some course-subjects were only borne of some teachers' initiatives, which can change, especially when resources are scarce.

## “FOR”

### 1. Accountability and Inclusivity

Case 2 has no collective memory of the martial law years, which correlates to their lack of HRE-related content. Their values appropriated for *accountability* is likewise challenging; when SST was asked how it reconciles the fact that the school carries the Marcosian brand, associated with human rights abuses, SST responded, "Some would say that the Martial Law is a one-man thing. It was not a one man's decision, but a collaboration of those who are at the top or authorities." However, when asked if one can name any of these "authorities", SST cannot name anyone accountable. MT believes that it does not matter whether they attribute the word dictator to Marcos Sr. or not, what is important is that whatever happened during the martial law years is written. ET disagrees because there is only one name associated with the word <sup>6</sup>*dictator* in Philippine history. ET said Sarah Duterte

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<sup>4</sup> DepEd is the largest bureaucracy in the Philippine government (Briones, 2016).

<sup>5</sup> ICC- International Criminal Court

<sup>6</sup> There was an alleged memorandum from the Department of Education dated September 6, 2023, which Secretary Sarah Duterte later denied. However, Joyce Andaya, the DepEd 'Bureau of Curriculum and Teaching director, confirmed

has no right because she is neither an expert nor an educator. "He was the only one who imposed Martial Law...we are talking about 21 years; a very long reign of dictatorship...". ET continued that it is safe to say that the martial law period is put into writing, but emphasized that, the ordeal of those who suffered are excluded from textbooks. For added context, ET hails from Iloilo, a province in the Visayan region- south of the Philippines. This is where inclusivity<sup>7</sup> as a value appropriated becomes pronounced, ET was able to integrate into the Ilocano culture through the university, without sacrificing her own convictions. ET holds unpopular opinions regarding the Marcoses but retained the tenacity to voice-out personal convictions.

ST says there are evidential truths that Marcos was a dictator after his presidency. ST adds that <sup>8</sup>VP Sarah is entitled to her opinions, for as long as she does not coerce people in DepEd to follow. ST concludes that their school is under the Commission on Higher Education (CHED), so whether they follow the memorandum or not, it will not have repercussions. SST, however, posed a question, "What makes a dictator?". Soc. T explains that historically, dictators rise to power during crises. Dictators are chosen by either a senate or the people in the hope that they will enact policies to solve the crisis. Soc.T argues that this is how Marcos Sr. became a dictator. He campaigned against communism, and the solution was martial law. Soc.T concludes that the floating memorandum from DepEd is an unwelcomed burden imposed on educators- who are forced to play a game they unwittingly must face.

### **1.1. Inclusivity as values appropriated by the students**

ET shared that there is one Grade 10 student who has a condition called dwarfism. We will refer to the child as Grace. Grace is not more than 2 feet in height. And although one toilet-cubicle was adjusted with handlebars, Grace's classmates would take turns in being her 'Buddy'. 'Buddy' ensures, that Grace is always assisted from carrying her bags, in lifting her to, and from the toilet, to reaching for sinks, and other school facilities. Grace is given equitable opportunity, and positive discrimination through her classmates, who are very mindful in giving her spaces, and chances to be included, and to participate in a meaningful way. The school has insufficient infrastructure for people with disability, but it is the community that adjusts. ET said that for now, the school can only cater to one student with a disability. This value on *inclusivity* would not have manifested into practice if without teachers' instruction. This is where the values appropriated by the teachers have transcended to the students.

**“THROUGH”/ “FOR”**

## **2. Constitutional By-Laws and Accountability on Bullying**

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through an online press conference that the memo does exist (Vera Files, 2023). The department denied the existence of such memorandums in October 2023 (Vera Files, 2023). The alleged memo intends to remove the name "dictator" attached to Marcos Sr. in the 6<sup>th</sup> grade Social Studies course (Bollo, 2023). The existence of the memo is contentious.

<sup>7</sup> The acronym for Case 2's core values is KIPSS (K-knowledge, **I-inclusivity**, P-professionalism, S-social responsibility and Spirituality.)

<sup>8</sup> As of June 19, 2024, nine months after the interviews, Sarah Duterte resigned as Secretary of DepEd (Esguerra, 2024).

CITT said that bullying usually happens surreptitiously or “*palimed*” in *Ilocano*<sup>9</sup>. Bullying can be validated when one's observations are corroborated by two to three teachers who also handle the class. MT has two indicators to validate *bullying*: 1. absenteeism, and 2. frequent discomfort in the groupings. The adviser handles most bullying incidents and then communicates verbally with the guidance counselor. Case 2 does not have a written protocol for bullying. The verbal policy is that all group chats can only be initiated with the teacher's supervision and permission, which makes it too teacher-centered. Reporting and management are handled without placing protocols for students to report incidents of bullying they experienced or witnessed. ST said the school is in the process of creating an 'Anti-Bullying Council' - an initiation in partnership with the Parent Teachers Association (PTA), promoting parental rights and parental responsibilities. Case 1's student handbook provides steps, referral system, and the counselor as the designated manager to handle incidents. It also provides for sanctions and when to activate the 'Disciplinary Committee' to investigate after an *IR* (Incident Report) has been communicated.

### 3. Empathy

MILT shared that there is one teacher whose content is on cancer cells. This teacher will be named Darwin. Darwin added an affective domain competency in the assessment tool by instilling *empathy* in the students through writing. Darwin tapped an NGO that provides halfway housing for pediatric patients inflicted with cancer who are coming from the provinces and do not have the resources to pay for accommodations in Manila. These lodgings are provided while they wait for government hospitals, to give them a slot for chemotherapy. MILT knows of this because they integrated assessments together. The assessment was to ask the students to write a letter to the patients who are beneficiaries of the NGO. MILT said that there are several initiatives from the humanities, social studies, and literature to incorporate HRE. But it remains un-institutionalized, and not mandated. MILT said that they try their best because they have internalized the values attached to human rights. She opines that it would be best if they are given training with the pedagogical approaches because, as she puts it, “I think we are just grappling with the methods, and we do not know if it is working”.

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<sup>9</sup> *Ilocano* is a Filipino language spoken in different variations in the northern part of the Philippines (Britannica, 2024).

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# UNDERSTANDING THE SALWEEN PEACE PARK AS AN INDIGENOUS CONSERVATION INITIATIVE WITHIN THE GLOBAL DEBATE ON CONSERVATION AND INDIGENEITY

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## Abstract

The notion of conservation has been around for a while and is becoming increasingly prominent with the decline of biodiversity at an unprecedented rate. The connotations, in terms of its meaning and how to engage, and the implications, such as forced displacement of indigenous people and exploitation of nature for capital accumulation, have been shifting significantly over the years. Likewise, the relation between conservation and indigenous people has been shifting since the first implementation of conservation via protected areas. In Myanmar, conservation in the form of state-led protected areas is highly controversial for forced displacement and human rights violation against locals and its entanglement with longstanding civil conflict. The ongoing conflict between ethnic-armed organizations (EAO) and Myanmar military adds an extra dimension to the relationship between conservation and indigenous people and serves as a vital aspect to understand both state-led conservation and indigenous grassroots ones. Following arguments against essentializing indigeneity or assuming indigeneity as in harmony with nature, indigenous conservation initiatives in Myanmar/Burma have to be carefully assessed for potential political, ideological, and economic connotations as well. Using the Salween Peace Park, a Karen indigenous grassroots conservation initiative, this research explores how a grassroots conservation initiative positions itself within the global trends on the relationship between conservation and indigeneity, navigating global politics surrounding the debate as well as local politics of fight for self-determination. This thesis argues that indigenous Karen communities in and stakeholders of the SPP are carefully navigating the SPP discourse within global politics of the relationship between conservation and indigeneity to realize their core aspirations.

**Keywords:** conservation, indigeneity, Salween Peace Park, discourse, Myanmar/Burma,

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## **Introduction**

The dominant idea of development during the first few decades of the post-colonial and post-world war era, is concerned with economic growth and turning nature into mere resources for 'commodity production and capital accumulation' (Shiva, 2010). As the rampant exploitation of natural resources as inputs for industrialization and economic growth continued, the depletion of renewable and nonrenewable resources became significant and concerns over these grew into global attempts to conserve biological diversity such as the Convention on Biological Diversity (CBD). The notion of 'conservation' itself has been around for a long time now, and the connotations and implications surrounding this topic have been shifting over the years. The introduction of protected areas such as national parks and wildlife sanctuaries to preserve biodiversity emerged out of the very first global attempts at conservation, and as of December 2023, there are 293,754 terrestrial and marine protected areas all over the world according to 'Protected Planet' (Protected Planet, 2024). Despite such large numbers of protected areas, the impact of these on biodiversity preservation is highly debated following the negative consequences of state-led conservation initiatives on indigenous people and local communities.

Indigenous people and local communities bore the implications of protected areas as many of them were forced out of territories they have been living in for generations, destroying their livelihood opportunities. The same can be said for the creation of many protected areas in Myanmar, one of the most biologically diverse countries in the world, and civil conflict, mainly between ethnic-armed groups and the Myanmar military, puts an extra dimension to it. Using the discourse of global conservation of biodiversity as leverage, the Myanmar military imposed territorial claims and control over contested territories, increased militarization and committed crimes breaking human rights violations by establishing protected areas as counter-insurgency measures (Woods & Naimark, 2020). As a response to the top-down state-led conservation initiatives, indigenous and local people have also engaged in grassroots conservation initiatives, furthering their claims on self-determination and recognition of customary laws and traditional governance and belief systems.

## **Methodology**

In this research, I follow the four-phase research process proposed by Cummings et al. (2020) which provides a clear step by step methodology to perform discourse analysis.

- The first phase is 'selection of research topic and providing an overview of past discourses' (Cummings et al. 2020, p.103). The first phase includes two steps: selecting a topic relevant to a social question that could be approached with an emphasis on 'language and,



specifically, text’ and identifying pre-existing discourses in the area one is studying (Cummings et al., 2020, p. 102).

- The second phase includes identifying suitable texts and analyzing these (ibid.). It constitutes three steps: selecting texts relevant to the objective of the research, analyzing texts, and identifying discourses identified in phase one. Analyzing texts has to be conducted at the level of
  - ‘individual words and phrases’
  - ‘how the words and phrases relate to each other in the text’
  - ‘the priority given to different themes’ (p.104).
- In the third phase, the researcher engages in ‘how the text has been developed and how this [potentially] relates to the discourses identified’ in the analysis of the text and discourses identified in the area one is researching (p.102).
- The final phase is formulating ‘possible solutions or ways past the dominant discourse in terms of creating new discourses, narratives, and arguments’ (p.105). Simply put, it means working out possible ways to overcome problems ‘identified by the use of discourses, narratives, and arguments’ (p.102).

## Conceptual Framework

In terms of analysis for the conservation debate or trend in my research, I follow Buscher & Fletcher’s (2020) categorization of it in a highly simplistic manner along two axes, ‘from capitalist to post-capitalist positions on one axis’ and ‘from positions steeped in the nature-people dichotomies to those that aim to go beyond these dichotomies’ on the other (p.7). Accordingly, it can be divided into four parts; ‘mainstream conservation’, ‘new conservation’, ‘neoprotectionism’ and ‘convivial conservation’ (Buscher & Fletcher, 2020).

- The **mainstream conservation** is fundamentally capitalist with the acceptance of nature-people dichotomy, through emphasis on protected areas with a specific view on wilderness and ‘pristine’ nature (ibid.). In mainstream conservation, people are viewed as destructive towards nature, and should be kept outside of conservation areas. For example, in the case of Lenya National Park in Myanmar, a state-led fortress conservation initiative, local Karen villagers are seen and labelled as forest destroyers in the creation of the park by state officials and international NGO actors (Woods & Naimark, 2020).
- The **new conservationists** scrutinize the embeddedness of humans, their cultures and traditions as ontologically and epistemologically distinct from nature, portraying the wilderness and nature as element to be incorporated into a broader socio-natural ‘rambunctious garden’ to be managed by people (Buscher & Fletcher, 2020). However, the way to be managed here is purely capitalist, supporting environmental service valuation and natural capital solutions to the environmental crisis (ibid.). In new conservationist approaches, it is understood that nature does not exist separate from human activity, and this human activity should be

managed for conservation including those who are located within areas of nature to be conserved.

- **Neo-protectionists**, on the other hand, reject both elements, rooting for the separation of human and nature to an unprecedented scale to support the survival of all-life-supporting ecosystems and being critical of growth and consumerism in contemporary capitalism (ibid.). However, some neoprotectionists are increasingly accepting the role indigenous people play in biodiversity conservation although they call for protection of nature from human activities and influences (Locke, 2018).
- **Convivial Conservation** stems from the political ecological perspective critical of capitalist political economy, rejecting both nature-human dichotomy and capitalist conservation demanding continued growth with intensified consumerism (Buscher & Fletcher, 2020). Convivial conservationists call for structural change and environmental justice targeting global capitalist interests and transcending technocratic beliefs based on indigenous movements advocating for alternative conservation (Buscher & Fletcher, 2019).

Following Buscher & Fletcher (2020), the following table summarizes the categorization of conservation debate.

|                   | Nature/Culture Dichotomies | Beyond Dichotomies     |
|-------------------|----------------------------|------------------------|
| Capitalist        | Mainstream Conservation    | New Conservation       |
| Beyond-capitalist | Neoprotectionism           | Convivial Conservation |

Table 1: Operationalization of the conservation debate (adapted from Buscher & Fletcher, 2020)

## Findings

We can see that the dominant discourse found in the charter and related publications on the SPP is the discourse of convivial conservation with the acknowledgment and incorporation of indigenous knowledge, practices and culture. The SPP is framed as a conservation project that rejects the ‘human/nature dichotomy’ and capitalist approach to conservation. Karen indigeneity is framed as being or living in harmony with nature and their traditional knowledge, customary practices, and culture are presented to revolve around their holistic worldview. Conservation initiatives in the SPP through engagements like community forests and wildlife sanctuaries could be understood as manifestations of Karen indigeneity or enactment of their traditional practices and values. Alliances or networks of the coalitions are formed with international Indigenous movements and affiliated organizations, such as the ICCAs and IPCAs, in order to protect the SPP

discourse into the wider global debate on conservation and indigeneity, furthering Indigenous peoples' role in dialogue on conservation. In the publications from these international indigenous organizations on the SPP, narrating it within convivial conservation discourse is done in a consistent manner as in its charter. Moreover, the SPP is also incorporated into global dialogue on climate change and environment, pointing it out as a form of indigenous climate resiliency and an effective alternative approach to addressing global environment crisis, through platforms like CBD press conference and public conservation-related events.

The international conservation community widely applauded the achievement and innovative approach of the peace park for conservation within conflict-ridden areas, awarding prestigious prizes to the park and its leader. In the presentation of the SPP from powerful conservation actors that award the Equator prize and Goldman Environmental Award, we could see that how these powerful actors frame the park that given that there are multidimensional aspects in the SPP discourse such as peacebuilding and democratic governance in connection with conservation and indigeneity. The former stresses on the challenges and local response in the SPP while the latter on the application of scientific and indigenous knowledge in documenting and managing biodiversity and in its democratic governance system. Nevertheless, the multiple aspects of the SPP discourse are not being undermined in their narrative of the park, supplementing the framing of SPP discourse as a conservation initiative in a conflict zone. However, in the IUCN's story on the SPP, the revolutionary aspect or the peacebuilding dimension of the park is completely disregarded, framing it as 'a unique community-based approach to conservation' (IUCN, 2020). In order to project its discourse into the global conservation arena, in addition to forming alliances with organizations that share and promote the same conservation agendas, the SPP also collaborates with international conservation actors that share and promote different conservation approaches like the IUCN. Although the IUCN promotes the '30 by 30' approach and the chairperson of the SPP has openly criticized it, compromises were made so that collaborations in different projects could move forward. Tolerating such difference prompts a win-win situation for both sides in this case as the SPP could leverage resources, legitimacy and international recognition through working with the IUCN while the IUCN could promote themselves as a major conservation actor that collaborates and support local indigenous grassroots initiatives.

## **Discussion**

Although the SPP is framed as a convivial conservation project where it takes 'beyond capitalist' and 'beyond the human/culture dichotomy', the fact that economic development in terms of infrastructure and extractive activities are accepted or tolerated to a degree, raises a few points for discussion. So, as an indigenous grassroots conservation project which revolves around Karen indigeneity, local communities being in harmony with nature and being steward of their ancestral territories is stressed with regard to the human/culture dichotomy and capitalist approach

in conservation. Having a relational worldview where everything – all sentient and non-sentient beings – are interconnected, the SPP do not remove indigenous Karen communities from conservation areas and promote the intrinsic value of nature against capitalist approach of seeing nature as mere resources for exploitation. Although the SPP as a convivial conservation initiative makes no mention of forcing the locals out of the park, the acceptance of infrastructure and economic development initiatives in this charter poses questions regarding the element of ‘beyond-capitalist’ and Karen indigeneity in the SPP.

The SPP can be understood as ‘beyond-capitalist’ due to its promotion of values such as ‘connectivity’ and ‘interconnectedness’ and mandating against any economic development that negatively impacts the environment. However, upon closer examination of the charter, we could see that it leaves room for infrastructure and energy development, construction or commercial projects, extractive activities with the collective decision-making through a public forum holding veto on any advancement. Although any economic and infrastructure development that negatively impacts the environment is stated not-to-be accepted in the charter section 95, we could find contradictions in later sections 99, 100 and 101 (SPP charter). Potential negative impact on common pool resources such as soil, water and air from the commercial projects such as timber plantations, commercial extractive activities, and infrastructure projects for energy development are stated as acceptable as long as collective decision making has final say over these projects. This tolerance of economic activities negatively impacting the natural environment in the SPP poses doubts over the SPP as convivial conservation initiatives where nature is not to be exploited. How such acceptance of economic development in the park affects the categorization of the SPP in terms of whether it can be understood as convivial conservation is up to debate.

In addition, the acceptance of economic development – plantations, mining, extraction on a commercial scale and infrastructure advancement – in the SPP also raises concerns and questions on Karen indigeneity. Karen indigeneity is presented as being in harmony with nature, having a way of life that promotes and values the natural environment including wildlife and rivers, and following livelihood practices that do not impact the well-being of nature around them. Accordingly, it is presented that -

“Economic development and activities in the Salween Peace Park are oriented towards the continuation of the Indigenous Karen way of life” (SPP charter, p. 32)

It can be interpreted that economic development and indigenous Karen way of life are presented as compatible and could go along together. However, if economic activities are negatively impacting the natural environment that serves as the backbone of indigenous Karen way of life and such developments are to be accepted in the SPP, what that would mean for Karen

indigeneity and the continuation of their indigenous way of life worth pondering. Following the static understanding of indigeneity and culture, the incorporation of economic development could translate into destruction of Karen indigeneity and their way of life in the SPP. At the same time, it could also be interpreted as manifestations of hybridized Karen indigeneity with modernity as we see in Karen indigenous people in Thailand where some communities transition towards 'cash-oriented production' from subsistence-oriented ones, participating in wider market relations, following the government's policy to integrate hill tribes people since 1959 (MacMillan, 2023, p.43).

## **Conclusion**

All in all, it is undeniable that indigenous Karen communities and its stakeholders are carefully navigating the SPP discourse within global politics of the relationship between conservation and indigeneity although it can be pointed out that not everything presented on the paper about the park reflects what is happening on the ground. In other words, the SPP is attempting to realize the three pillars or core aspirations by taking sole control of the park's governance and steering the discourse of the park in relation to global debate on conservation and indigeneity cleverly.

The SPP positions itself in the global politics of the relationship between conservation and indigeneity as a convivial conservation initiative of indigenous Karen people in a conflict-prone context that extends beyond the 'human-nature dichotomy' and the capitalist mode of conservation. Karen indigeneity in terms of indigenous Karen knowledge, practices and culture are presented to serve as the basis for conservation initiatives taken in the SPP. Leveraging the international indigenous movement, it forms alliances with other powerful international indigenous organizations to project its discourse into the global conservation arena as well as to further indigenous movement agenda in global discussions on conservation and indigeneity. It expands its relevance in global dialogue on conservation related issues such as climate change and environment by highlighting how indigenous people and their knowledge could contribute to responses towards global crises with the case of SPP as an example. It draws on resources such as funding and technical support from international conservation organizations - that share the same agenda in global trends on conservation and indigeneity - in establishing and governance of the park. Even if there is lack of consensus regarding conservation approach one advocates and promotes with powerful conservation organizations like IUCN, compromises are made from both sides so that collaboration can move forward. Moreover, the language of international indigenous movement, in terms of indigenous people rights and right to self-determination, is used in the SPP discourse not only to gain international legitimacy but also to further their goal of peace building in the Salween River basin.

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# CHINA'S STRATEGIC APPROACH TO INDUSTRIAL UPGRADES

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## **Abstract**

Industrial policy drives industrial upgrades and contributes to economic growth, then empowers social mobility and dynamics through improving technology and the environment. In China's economic growth path, advanced manufacturing plays a significant role in industrial upgrades. However, external challenges and internal imbalances impede its development. Thus, it is critical to study strategic approaches to promoting independent innovation and fostering industrial transformation. This research mainly attracts attention to the new semantics in "Report on the Work of the Government (2024)" and evaluates its impacts. By analyzing essential policy contents, this research identifies the trends and impacts of China's industrial policy on manufacturing improvement toward innovation and high-quality development. It seeks to investigate the causal relationship between policy interventions and industrial upgrades. Furthermore, it contributes to understanding how strategic governance can drive industry transformation and sustainable development.

This paper is part of a Master's independent study with the same title. This study adopts a comprehensive literature review to investigate the effectiveness of existing policy. It aims to provide valuable insights for practitioners and academic researchers in the manufacturing sector by analyzing the evolution of industrial policies and their practical implications. Ultimately, the study expects the findings to highlight the necessity for continuous industrial policy adaptation to address challenges and support China's long-term industrial aspirations.

**Keywords:** report on the work of the government (2024), new quality productive forces, industrial policy, manufacturing.

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## **Background and Context**

Developed and developing countries are now involved in the new generation of industrial revolution, starting from “Industry 4.0” issued by Germany, afterward, “National Strategy for Advanced Manufacturing” issued by the United States, and “Manufacturing Industry White Paper 2023” issued by Japan. As one of the main components of the economy, China considers the manufacturing industry to be the cornerstone of the national economy. In the manufacturing field, China has all the categories of supply chain defined by the United Nations. Intelligent manufacturing plays a role in industrial upgrades by promoting digitalization, informatization, and intelligentization. It has rapidly changed the production relations in China. Since recovering from the pandemic, China has faced severe development requirements. Both the adjustment and iteration of industrial policy are required. Industrial upgrades are recognized as an essential measure to change the productive force. It aims to increase productivity throughout the manufacturing industry.

However, independent innovation is considered the most essential growth element, though it faces the challenge of external factors. For instance, the high-end chip blockade, geographical competition, and trade disputes have caused a severe impact on the growth of advanced technology. Although these uncertainties hinder the progress of domestic science and technology, they also drive domestic enterprises to be self-reliant and focus on independent innovation. The entire industry and society urgently need more robust policy support and a good business environment. Adjusting policies to address current and future barriers will help manufacture transformation by strengthening its resilience, eventually achieving continued growth.

The policy should properly guide productive forces. An essential national strategy and economic opening-up plan significantly contributed to socio-economic reform and China's rapid growth since 1978. It has been examined as a turning point in the Chinese socialistic path. Sachs and Wing (1997) referred to this reform as a "socialist market economy with Chinese characteristics." The strategy has brought success stories of how policy contributes to industrial growth.

## **Conceptual Framework**

In this part, the conceptual framework is expected to express the relationship between variables in industrial growth. Moreover, the result could illustrate the causal relationship between them.



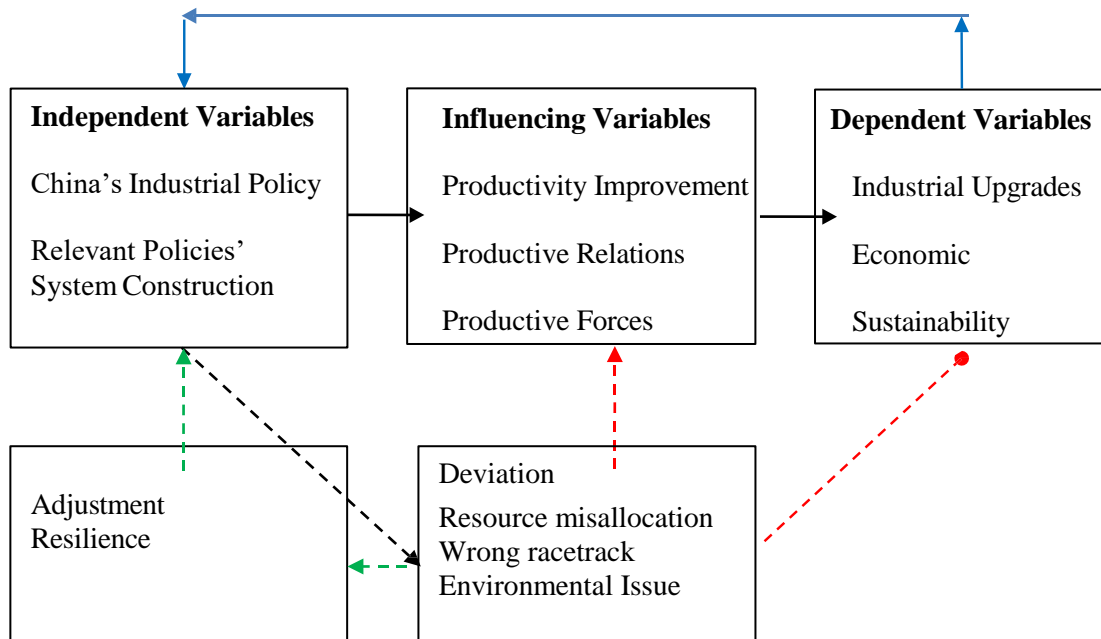


Figure 1: The cause-and-effect relationships of the variables

### Methodology

The primary research method is a comprehensive literature review. This study will first review three policy texts in manufacturing and interpret their characteristics and focus. Afterward, during the paper reading, the author found different views on the industrial policy of shipbuilding. This research will introduce their misreading and clarify that question.

### Data Collection, Washing, and Analysis

Policy texts have been collected from official government websites, including the State Council, Ministry of Industry and Information Technology (MIIT), Ministry of Science and Technology (MST), National Development of Reform Commission (NDRC), and other national institutions. After data washing, only three primary policy texts remained.

The significance of this study is the **new semantics** in the national strategy, which is different from past research. The 14th National People's Congress (NPC) opened its second annual session in Beijing on 5th March 2024. The new semantic is linked to the phrase “**new quality productive forces**,” quoted from a 2024 government report.

## Literature Review

### Theme 1: Major Policy Texts Review

"Made in China 2025" focuses on critical areas of development, emphasizing innovation, market leadership, and strengthening capabilities through government guidance (State Council, 2015). It is based on target-related industries, focusing on systematic support and guarantee. It is a comprehensive strategy that drives manufacturing internationalization.

The theme of intelligent manufacturing in the "14th Five-Year Plan" development plan focuses on independent development. "Intelligentization" refers to the process of integrating intelligence into systems, processes, or technologies. The development scope includes enterprises, industries, and regions; the carrier is innovation and factories, supply chains and units. It is based on the essence of manufacturing, market-driven integrated development, and focuses on safety and standardization construction (Ministry of Industry and Information Technology, 2021).

The 14th National People's Congress (NPC) opened its second annual session in Beijing on 5th March 2024. It is essential to study the "Report on the Work of the Government (2024)", particularly the keyword "new quality productive forces" in the report. This paper will introduce its semantics in a separate chapter later.

China's independent innovation and technology strategies are primary instruments in industrial policies and government reports. Significant industrial policies, such as "Made in China 2025" and the "14th Five-Year Plan for Intelligent Manufacturing Development Plan" prioritize intelligent manufacturing and low-carbon development. The 2024 government work report underscores the importance of a high-quality, productive force (State Council, 2024). In parallel, it emphasizes the determination to strengthen the industry through innovation. These strategies aim to integrate intelligentization and productivity, promoting industrial transformation.

### Theme 2: New Semantics in Government Report 2024

The purpose of exploring new semantics is to learn systematic changes and challenges the government wants to resolve. Its **theoretical basis** came from Marx's literary book "Capital: A Critique of Political Economy." The principle of Marxism revealed that the root of development is the development of production relations matching productivity. Current production relations refer to the evolving relationship between technology and human labor. When the relations of production are not adapted to the development of the productive forces, the productive forces will stagnate completely, and vice versa, leading to errors in the mode of production (Marx et al., 1906).

## **Back to Marx**

In a Chinese context, China's economic strategy returns to a recreated version of Marxism, which aims to increase productivity in response to the requirements of the changed production relations. Meanwhile, it enhances competitiveness and promotes structural economic transformation.

Wu (2024) regarded the central planning system as a mercantilist system, in which the government's power would change the relative costs of factors forcibly to serve national interests. Now, industrial policy is linked to resource allocation throughout the five-year economic plans, usually through state-owned enterprises (SOEs) to promote technological innovation and economic growth (Liu et al., 2022). Although implementation strategies are still to be explored, iteratively updated industrial policies have shown effectiveness in reallocating resources to state-owned and private enterprises.

## **Total Factor Productivity**

The methodology "Total Factors Productivity" is commonly used in productivity measurement. From an economic perspective, Gao and Feng (2023) provided an empirical study to measure the productivity and efficiency of policy implementation by using the TFP methodology. The significant effect of the TFP increase was to promote productivity through technology transformation, which improved the productive force. Finally, the productive forces can match production relations.

A study by Ye & Lin (2016) shows that the TFP growth effect of private enterprises is the highest, followed by foreign-funded enterprises, and state-owned enterprises are the worst. Sachs and Wing Thye (1997) revealed that China's SOEs' productivity has lagged behind other enterprises since China's reform. These findings highlight the root reason why policy content needs to be changed. It has shifted from emphasizing market-driven and policy-oriented policies to returning to total factor productivity. Meanwhile, it was pointed out that it should tailor policy implementation according to the different roles of enterprises in China's economic growth process. Realize the transformation from "factor-driven" to "productivity-driven" (Xinhua, 2024).

## **New Quality Productive Forces**

For the first time, the 2024 government work report listed "vigorously promoting the construction of a modern industrial system and accelerating the development of "new quality productive forces" as the first task."

According to the interpretation of CCTV News (2024), the new quality of productive forces is the advanced modernized productivity generated by revolutionary breakthroughs in innovation, production factors allocation, depth transformation, and industrial upgrading. The primary connotation of the concept is the leap in the laborers, labour materials, labor objects and their optimal combinations. A significant increase in

total factor productivity is the core symbol of the new quality of productive forces.

From the perspective of Marxism, Zheng (2024) recalled and provided insights to understand the importance of new quality productive forces. Combined with the interpretation of "Report on the Work of the Government (2024)", new quality productivity is characterized by innovation. The key is quality, and the essence is advanced productivity.

### **Theme 3: Previous Research**

Previous studies, such as the paper by Ma and Bai (2021) and Ye and Lin (2016), analyze policy content and economic benefits using various methodologies. Their data sources include policy texts, official annual reports, and company-disclosed annual reports. The methods adopted by Ma and Bai (2021) include keyword capture and part-of-speech analysis. They examined whether the characteristics and evolution of industrial development in Chinese enterprises were aligned with the policy guidelines and whether the policy promoted the positive development of the industry.

Most economists adopted empirical analysis to focus on economic benefits and spillover benefits. Ye and Lin (2016) used the TFP analysis method of early economists, the objects of research and observation focused on state-owned enterprises and private enterprises, and a range of research scopes from innovation investment to industry-specific subsidies. The data is derived from government ministries such as the National Bureau of Statistics of China (NBSC) and the financial statements of listed companies.

The literature about China's industrial policy generally emphasizes the importance of formulating policies according to specific industry dynamics (Aghion et al., 2015), contributing to the rapid development of China's GDP, especially the manufacturing industry. In contrast, some empirical studies have highlighted the limitations of industrial policy implementation, such as the short-term effectiveness of industrial policy. However, Western scholars tend to stereotype China's industrial policy even if they acknowledge its contribution to state-owned enterprises and the state-owned economy. Often, these scholars refer to it as non-competitive market behavior. Brooks et al. (2016) agreed with cluster benefits' positive aspects but debated cost-effectiveness.

### **Research Limitations**

The analysis limitation is that it is hard to quantify political efficiency from data sources. Western scholars have interactively referenced similar data sources and adopted the same case for output, such as China's shipbuilding industry subsidy policy, for instance, Panle Jia Barwick et al. (2019), Juhász et al. (2023) and Irwin (2023, p. 14) used same data sources in different eras and disciplines. Some studies have concluded based on imprecise data sources, such as quantitative rather than qualitative assessments of patents (Wei, 2016). Even if there are new empirical measurements and resilient variables, they cannot fully reflect the resilience and evolution of China's industrial policy.

Another limitation is that Western scholars repeatedly use outdated data, leading to potential inaccuracies. Current academic analyses refer to data that mostly came from before 2018. For example, the US 2021 report only referred to data from 2008 to 2013. In addition, although some scholars mention national defense in some industrial policy studies, almost all Western papers avoid or ignore the impact of defense build-up. It was apparent that China's strategic approaches had contributed to the launch of the first home-made aircraft carriers. For which was the peak of modern engineering and industrial strength. It represented the highest achievement of a country in technology and industry.

Following a review of research results in manufacturing, the empirical analysis was more concrete regarding the benefits of policy-driven innovation in some specific sectors and regions; however, it lacks strong evaluation results. For instance, the papers used to measure only one outcome, profitability; however, it was known that the decisive factors of intelligent manufacturing were cutting-edge technology and high-end general-purpose chips (Zhou et al., 2022). Even though there are technical barriers, investing in the chips industry is still a critical policy to strengthen national technical power.

### **Research Gaps**

The current research on China's industrial policy is primarily social science-based (Wei, 2016; Han & Yang, 2021), and economic papers focus on state subsidies and assert prices (Liu et al., 2022). It lacks a direct focus on sustainability benefits and contributions from experts with a background in industry.

Another research gap is the small quantity of Western literature on China's industrial policy, academic papers, and reports. Most of the documents are often written by people of Chinese ethnicity. The author thought the main reason was the cross-culture and linguistics. Cultural and lingual might be why the paper database cannot be cross-referenced. In addition, few economic papers study manufacturing in macroeconomics. Most of the current empirical research focuses on different industries. Numerous other variables also make it difficult to do empirical research on TPF in manufacturing. Thus, besides empirical research, it is necessary to understand the starting point of China's policy design. It returns to Marx to truly understand China's conditions and strategies.

### **Tentative Outcome**

#### **Misreading of Industrial Policy**

In certain contexts, Westerners still illustrated China's industrial policy in political consciousness. Westerners often over-emphasize social norms. It is not viewed from the development laws of globalization, but from the impact of industrial clusters because of the national capital (Lee & Li, 2022). There is reason to believe that the literature on China's industrial policy resulted in the Sino-U.S. trade war. The trade war made China face unilateralism and technological constraints in manufacturing. These external

uncertainties have also prompted an update of China's governance structure and policy instruments (Zhang et al., 2021). Subsequently, these changes are reshaping industrial policy.

### **Industrial Transformation and Upgrades**

The highlights of TFP and the new quality of productive forces would encourage China's manufacturing sectors and entire industries to walk on the path of transformation. The transformation, in essence, is from low value-added to high value-added upgrading, from high energy consumption and high pollution to low energy consumption and low pollution upgrading, from extensive to intensive upgrading.

### **Innovation and Sustainability**

Policy-driven productivity is the recommended approach to strengthening pillars of sustainability, including the economy, environment, and society. Industrial policy is the instrument for adapting production relations through intelligent manufacturing.

Xinhua (2024) presented that China's focus on new quality productive forces aims to shift from traditional to innovative manufacturing, emphasizing high technology, efficiency, and sustainability. The paper also interpreted this strategy to pursue economic growth through innovation, high-quality production, and environmentally friendly outcomes. Ultimately, it conforms to the new development concept.

### **Conclusion**

China's strategic approach to industrial upgrade is rooted in the understanding and development of Marxism. It is crucial to content the production relations in the current rapid development of technologies. The study explores significant policies prompting industrial transformation. The research reveals that the essence of industrial policy adaptation and refinement is to respond to the changes in production relations, hence contributing to productivity. It can strengthen the industry's capacity to meet new challenges toward sustainable development.

### **Ethical Concerns**

The paper does not address ethical issues because it only adopts a literature review.

### **Abbreviations and Acronyms**

State Council (State Council of China)

MIIT (Ministry of Industry and Information Technology) MST  
(Ministry of Science and Technology)

NDRC (National Development of Reform Commission) TFP  
(Total Factor Productivity)

State-Owned Enterprises (SOEs)

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# REPRODUCTIVE RIGHTS AMONG MYANMAR POLITICAL MIGRANTS IN MAE SOT, THAILAND

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## Abstract

Myanmar has experienced substantial political and economic instability since 1988, resulting in significant migration patterns. Following the February 2021 military coup attempt, many citizens fled to escape violence and human rights violations. Mae Sot, located on the Thailand-Myanmar border, has become a crucial refuge for political migrants who face numerous challenges. This case concerns access to essential health services like sexual and reproductive health (SRH) care. This study investigates the barriers and facilitators affecting SRH service access for Myanmar political migrants in Mae Sot. The research integrates public health, social justice, and human rights principles through the Migration and Health Framework. The qualitative research design involved 31 participants in individual in-depth interviews and key informant interviews. The thematic analysis identified significant barriers such as insecure legal status, language barriers, financial constraints, transportation issues, and cultural stigma. Additionally, the study found that community networks and NGOs play a crucial role in facilitating access to SRH services. The findings highlight the need for targeted interventions, including legal reforms, language services, financial support programs, transportation solutions, culturally sensitive care, and enhanced community engagement. This study aims to improve SRH service access and the well-being of Myanmar political migrants in Mae Sot by addressing these barriers and leveraging facilitators.

**Keywords:** Myanmar political migrants, reproductive rights, healthcare access, human rights

## Introduction

Myanmar has experienced substantial political and economic instability since 1988. It results in significant migration patterns in Myanmar. The military coup in February 2021 worsened the situation, which led to a large-scale departure of citizens who sought shelter from increasing

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violence and violations of human rights (Myanmar, 2022). Mae Sot is on the border between Thailand and Myanmar. Mae Sot has become a crucial refuge for political migrants. However, this surge has presented challenges, particularly in accessing essential health services such as sexual and reproductive health care (Fortify Rights, 2023).

The objective of this study, titled “Reproductive Rights among Myanmar Political Migrants in Mae Sot, Thailand,” is to investigate the various barriers and facilitators that either hinder or assist in the accessibility of sexual and reproductive health services for this vulnerable group. The research incorporates the Migration and Health Framework, which considers gender considerations. The Migration and Health Framework, which examines health needs and vulnerabilities, migration processes, policies, and community support, provides a structured approach for this study. This framework will be applied to understand the barriers and facilitators of accessing SRH services among Myanmar political migrants in Mae Sot. It combines public health, social justice, and human rights principles to tackle the sexual and reproductive health needs of political migrants (Nyunt & RIC, 2023).

Political migrants may not be able to obtain sexual and reproductive health services due to uncertainty about their legal status, language barriers, economic vulnerability, and social dynamics (Bouaddi et al., 2023; Hnin, 2020). Additionally, the lack of culturally sensitive healthcare services and the stigma associated with being a political migrant further exacerbate these barriers. The study focuses on the unique experiences of specific groups, such as women, LGBT individuals, and mothers. Few providers meet the sexual and reproductive health needs of these demographics. This research highlights the urgent requirements for fair and easily accessible healthcare for everyone, irrespective of their migration status, by analysing these challenges from a human rights perspective (Tawaytibhongs et al., 2022).

Understanding these dynamics is essential for formulating precise strategies to enhance the accessibility and utilisation of sexual and reproductive health services. This study addresses the knowledge gap and its impact on policy and practice. It seeks to advocate for a healthcare system that upholds and safeguards the rights of all individuals, with a particular focus on the most vulnerable.

## **Methodology**

This study employs a qualitative research design to explore the barriers and facilitators impacting access to sexual and reproductive health services among Myanmar political migrants in Mae Sot, Thailand. The research collected data through key informant interviews and individual in-depth interviews. Thirty-one participants were involved, including 26 participants and five key informants. The study participants comprised 14 women, eight men, and 4 LGBT individuals. These participants ensure a diverse representation of the political migrant population. The

participants ranged in age from 30 to 45, with significant representations of individuals under 30 and over 60. Participants were engaged in various occupations, including online media volunteers, handmade goods sellers, finance workers, programme associates, and food sellers. Some participants, however, did not have income-generating jobs and relied on external support from family, friends, and NGOs, highlighting the economic vulnerability of many migrants. The collected data were analysed using thematic analysis, a method suitable for identifying, analysing, and reporting patterns (themes) within qualitative data. It guided the analysis using the Migration and Health Framework, which provided a structured approach to evaluate health needs and vulnerabilities, the effects of migration processes, policies, and community integration support while emphasising gender issues. Researchers transcribed the interviews verbatim and systematically coded the transcriptions. The coding process involved identifying significant statements and organising them into themes related to barriers and facilitators of SRH service access.

The study addressed several ethical considerations to ensure the protection and well-being of the participants. Researchers obtained written informed consent from each participant, informing them about the study's purpose, procedures, and their right to withdraw at any time. They strictly maintained the confidentiality and anonymity of the participants due to the sensitive nature of the topic and the vulnerable status of the participants. Additionally, the study adhered to ethical guidelines for research involving human subjects. It ensured that the research did not harm the participants and that their participation was voluntary and based on informed choice. Furthermore, researchers conducted the study following the approval of the Institutional Review Board (IRB) of the Institute for Population and Social Research (IPSR-IRB), assuring strict adherence to all ethical standards and protocols. This approval ensured that the study met ethical standards and protected the rights and well-being of the participants.

This research method ensures a comprehensive, ethical, and in-depth examination of the issues affecting Myanmar political migrants' access to SRH services in Mae Sot. This study contributes significantly to a more extensive discussion about migrant health and human rights.

## **Literature Review**

This study focuses on comprehending the complex dynamics that influence access to sexual and reproductive health (SRH) services for Myanmar political migrants in Mae Sot, Thailand. In this study, the Migration and Health Framework provides a structured approach to evaluating health needs and vulnerabilities, the effects of migration processes, policies, and community integration support, emphasising gender issues. A review of the relevant literature reveals that Myanmar political migrants encounter various difficulties resulting from their migration experiences and unstable living conditions. These challenges include both physical health problems and psychosocial well-being issues, which affect their ability to access sexual and

reproductive health services. Significant gender disparities exist within this migrant group, with women and gender-diverse individuals facing increased vulnerability and limited access to crucial SRH care (Meyer et al., 2019).

Researchers have discovered several noteworthy findings concerning the impact of migration on the health of Myanmar migrants and their access to sexual and reproductive health care. The literature highlights the difficulties migrants encounter during their migration, including physical and sexual harassment, exploitation, and limited access to healthcare services (Naing et al., 2020). Adjusting to the Mae Sot community, which frequently involves working in low-paying and unstable jobs, can exacerbate these vulnerabilities. Gender dynamics intersect with these challenges, as women and vulnerable populations, including LGBT individuals and mothers, encounter distinct barriers when trying to access sexual and reproductive health services (Hnin, 2020).

Thai healthcare policies significantly impact Myanmar migrants in Mae Sot who need sexual and reproductive health services. While Thailand has endeavoured to offer healthcare services to migrants, ongoing difficulties persist due to legal limitations, the need for proper documentation, and the limited capacity of healthcare facilities to handle the migrant influx. Restrictive policies that limit migrants' ability to obtain necessary healthcare services pose significant obstacles, especially for undocumented migrants (Parmar et al., 2019). Additionally, recent events, most notably the military coup attempt in February 2021 in Myanmar, have worsened the political landscape by increasing instability and discouraging migrants from accessing healthcare services. A comprehensive understanding of the policy environment is essential when seeking to improve access to sexual and reproductive health services, advocating for policy modifications, and protecting migrant health rights (Soe et al., 2023).

Gender dynamics play a significant role in community support networks and social integration for Myanmar migrants. Studies indicate that gender has a substantial impact on the experience and access to support networks of migrants. Women encounter specific challenges associated with gender-based violence, restricted economic prospects, and imbalanced power dynamics within the community (Loganathan et al., 2020). Furthermore, individuals who identify as LGBT face distinct challenges related to societal acceptance and discrimination. It is crucial to comprehend these gender-specific challenges to create interventions focused on promoting community support, tackling gender inequalities, and improving the overall well-being of migrants (Bouaddi et al., 2023).

In terms of interpretation, the study's findings closely align with the conceptual framework and existing literature. The barriers identified, such as legal constraints, cultural stigma, language barriers, financial constraints, and transportation issues, correspond with prior research on the difficulties encountered by migrants in obtaining healthcare services (Freedman et al., 2020). The significance of community networks and support systems in addressing these challenges highlights

the crucial need for culturally and linguistically appropriate healthcare, a service that formal healthcare systems frequently neglect to offer (Ohn & Worland, 2024).

This study has both practical and theoretical implications. The findings emphasise the need for more supportive and inclusive healthcare policies and practices geared specifically to benefit political migrants from Myanmar. These include addressing legal and structural obstacles, improving cultural proficiency within healthcare systems, and advocating for care approaches sensitive to gender (Tschirhart et al., 2023). This research contributes to the broader discourse on migrant health by understanding how migration, health, social, political, and gender factors influence health outcomes. This information can guide future studies and policy initiatives focused on enhancing the accessibility and fairness of sexual and reproductive health services for migrant populations.

This literature review highlights the urgent need for specific strategies to improve access to sexual and reproductive health services for political migrants from Myanmar in Mae Sot. This research aims to enhance interventions and policies for this vulnerable population by integrating insights from the Migration and Health Framework with a gender-sensitive approach.

## **Findings**

### **1. Barriers to Accessing Sexual and Reproductive Health Services**

Participants reported significant challenges related to legal documentation. The majority of these individuals held insecure legal statuses, such as police cards, which limited their ability to access healthcare. One participant shared, "My residence card in this country is known as a police card. Currently, this card can stay in Mae Sot ... but we can not travel or visit anywhere." This precarious legal status exposed them to the risk of arrest and deportation, further complicating their ability to seek medical care and creating a climate of fear that deters healthcare utilisation (Nyunt & RIC, 2023). The findings indicate that insecure legal status is a significant barrier to accessing healthcare. Fears of arrest and deportation severely limit the mobility of migrants, restricting their ability to seek medical care when needed. Legal reform that provides secure documentation is essential to ensuring Myanmar political migrants have access to healthcare without fear. This finding aligns with the Migration and Health Framework's focus on the impact of legal status on health access. This framework will improve the health outcomes of all Myanmar political migrants.

Language issues were a significant challenge, with many participants struggling to communicate with Thai healthcare providers. A participant explained, "The main thing is the language... If you go to the hospital, you cannot understand what they say." The lack of translation services exacerbated these difficulties, leading to misunderstandings and inadequate care (Lee et

al., 2017). The consequences of inadequate healthcare for individuals with language barriers can be severe. Without proper communication, these individuals may struggle to accurately convey their symptoms, understand medical instructions, or ask important questions. This can result in misdiagnosis, inappropriate treatment, and overall compromised quality of care, putting their health and well-being at risk. Translating services and hiring bilingual staff can help bridge this gap and ensure migrants receive the appropriate care.

Financial limitations were pervasive among the participants, affecting their ability to afford healthcare services. One participant noted, "Monthly income... is less than ten thousand baht," highlighting their economic challenges. Consequently, they could not access essential SRH services, including family planning and treatment for sexually transmitted infections (STIs) (Fortify Rights, 2023). Additionally, distance and transportation costs further limit access to healthcare. A participant mentioned, "The clinic is far away... so transportation is a problem." Those living in remote areas find it particularly challenging to access medical care (Sullivan, 2022). Thus, it is clear that the lack of access to SRH services is a significant barrier to healthcare for these populations. Economic barriers severely restrict the ability of political migrants to access healthcare. The high cost of healthcare and transportation issues make it inaccessible to many people. Financial support programmes and subsidies are necessary to alleviate these economic burdens and ensure all migrants can afford essential health services.

Cultural differences and social stigma, including discrimination against LGBT individuals and women, deter participants from seeking care. For example, one participant shared, "A migrant woman faced discrimination while giving birth in a hospital. Despite her pain, she experienced long waits and inadequate care. Language barriers complicate communication with nurses. The patient reported feeling isolated and uncomfortable, noting issues with accommodations and basic amenities. There were stark differences in treatment between nationals and migrants." Another participant remarked, "A gay man was arrested without proof of residence while going to a clinic. He reportedly had unprotected sex for three days. He later sought treatment at a migrant clinic due to infection concerns. However, a health worker denied services, expressing discriminatory views. The text notes that LGBTQ+ individuals are reluctant to seek healthcare. The matter has been reported to the UN." These accounts highlight the compounded challenges faced by marginalised groups, exacerbating their health risks and deterring them from seeking essential care. This sense of alienation, coupled with the stigma associated with being a political migrant, discouraged individuals from accessing healthcare services (Naing et al., 2020). Especially for women and LGBT individuals, cultural stigma and social discrimination create a hostile environment for political migrants. There are additional layers of barriers to healthcare access for these groups. Reducing stigma and promoting inclusivity in healthcare settings is necessary by providing culturally sensitive care and awareness programmes.

The findings reveal significant barriers to accessing SRH services among Myanmar political migrants in Mae Sot. One participant explained: "My residence card in this country is known as a



police card. The cardholder can stay in Mae Sot; but we can not travel or visit anywhere else. They are not allowed riding a car." This precarious legal status exposed them to the risk of arrest and deportation, further complicating their ability to seek medical care and creating a climate of fear that deters healthcare utilisation (Nyunt & RIC, 2023). Another participant remarked, "The main thing is the language... If you go to the hospital, you cannot understand what they are saying." This statement highlights the significant challenge of language barriers, exacerbated by the lack of translation services that lead to misunderstandings and inadequate care (Lee et al., 2017). Restrictions on healthcare access due to insecure legal status violate migrants' right to health. The analysis reveals that insecure legal status, as highlighted in the interviews, significantly restricts healthcare access. According to the Migration and Health Framework, legal documentation is crucial for ensuring health access and mitigating vulnerabilities. Legal reforms and secure documentation are essential to ensure migrants can access medical care without fear of arrest or deportation. The difficulty communicating effectively between healthcare providers and patients results in inadequate care. Translators and bilingual staff can help bridge this communication gap, ensuring migrants receive the necessary medical care.

Myanmar's political migrants often face economic difficulties that make it difficult to afford healthcare services. This issue should be addressed through financial support programmes and affordable healthcare services to ensure all migrants can access the healthcare they need. High transportation costs and long distances further restrict access to healthcare for those living in remote areas. Improving transportation infrastructure and providing subsidised transportation options can enhance healthcare accessibility for political migrants. Cultural differences and social stigma contribute to feelings of alienation and deter migrants from seeking care. Culturally sensitive healthcare services and awareness programmes can reduce stigma and encourage migrants to utilise healthcare services.

The findings highlight significant human rights issues faced by Myanmar's political migrants in accessing healthcare services. For example, a key informant noted, "Recent political migrants face increased challenges due to their backgrounds. Those involved in civil disobedience movements (CDM) experience heightened risks, leading to restricted freedoms. In Thailand, undocumented migrants, particularly those fleeing for political reasons, live in fear of law enforcement and exposure of their identities." This example illustrates how migrants are not treated with dignity and respect, emphasising the need for a rights-based approach to healthcare that ensures dignity, respect, and equity for all individuals, regardless of their legal or social status. Barriers to legal status, language, financial access, transportation, and cultural stigma contribute to systemic inequities and discrimination. As a result of these challenges, policymakers urgently need to develop and implement programmes that address the unique needs of political migrants and ensure the protection of their right to health and well-being. By addressing these barriers and implementing targeted interventions, it is possible to improve access to SRH services. This intervention will enhance the overall well-being of Myanmar political migrants in Mae Sot. This

research contributes to the broader discourse on migrant health and underscores the importance of inclusive and equitable healthcare policies.

## **2. Facilitators to Improve Healthcare Access**

Facilitators play a crucial role in mitigating the barriers faced by Myanmar's political migrants in accessing sexual and reproductive health (SRH) services. Community networks and support systems provide essential assistance to these migrants. In this network, the support of people who have been in Mae Sot for a long time and the assistance of CDM (Civil Disobedience Movement) doctors are particularly critical. One participant mentioned, "I consulted a CDM doctor, an acquaintance in Mae Sot. After being treated at the clinic, I would ask for more detailed information."

Additionally, a CDM doctor stated, "I will accompany them if they have to go to the hospital or clinics because of their health. That way, they find it more convenient to go to the hospital." The role of CDM doctors in the community network is thus a significant facilitator, providing guidance and accompaniment to ensure migrants can access necessary healthcare services.

The support from acquaintances who have been in Mae Sot for an extended period also plays a critical role in meeting the needs of new arrivals. These established residents help newcomers navigate the healthcare system and provide timely assistance. They leverage their connections and their familiarity with local resources. Facilitators within these networks help migrants access health services, mainly SRH services, through their established connections and support systems.

A key facilitator in addressing high health costs for undocumented political migrants is the involvement of foundations and NGOs, particularly those focusing on health insurance. One respondent said, "Mae Taw Clinic instructed us to pay health insurance every month since we were pregnant, so there was no financial cost when the child was born." Health insurance services thus stand as a crucial facilitator, ensuring that migrants can access essential health services without incurring prohibitive costs. Another respondent noted, "We ... as a foundation focused on health insurance, 60 per cent of the monthly contributions of health insurance service members are for pregnant women in Mae Sot ... . Our service also supports abortion charges." An official from an NGO explained that they currently provide SRH services in Mae Sot with health insurance reimbursements. NGOs that provide health insurance and financial health support are essential for accessing health services, especially for pregnant women. However, these services are also limited and do not cover all healthcare needs.

Facilitators such as CDM doctors, long-term residents, foundations, and NGOs are critical to enhancing Myanmar political migrants' access to SRH services. CDM doctors and community networks provide essential support, guidance, and accompaniment, making it easier for migrants



to navigate the healthcare system. Foundations and NGOs offering health insurance and financial support help mitigate economic barriers to healthcare access. These facilitators ensure that political migrants can access the necessary health services despite significant barriers. However, these services' limitations and lack of comprehensive coverage highlight the need for more robust and inclusive support systems.

## **Conclusion**

This study identifies and analyses the barriers and facilitators to accessing sexual and reproductive health (SRH) services among Myanmar political migrants in Mae Sot, Thailand, emphasising the importance of human rights in healthcare access. Significant challenges include insecure legal statuses, language barriers, financial constraints, transportation issues, and cultural and social stigmas. These barriers impede migrants' access to essential healthcare services and violate their right to health. However, community networks, NGOs, and informal support systems are crucial in making SRH services more accessible for Myanmar political migrants. To resolve these issues, stakeholders can implement several targeted interventions:

**Legal Reforms** - Implement policies that provide secure legal documentation to reduce the risk of arrest and deportation and ease access to healthcare services.

**Language Services** - Establish translation and interpretation services within healthcare facilities to bridge communication gaps and ensure effective patient-provider interactions.

**Financial Support Programmes** - Create financial assistance programmes to help migrants afford healthcare services, including subsidies and low-cost options.

**Transportation Solutions** - Provide subsidised transportation options and improve transportation infrastructure to enable migrants to reach healthcare facilities more efficiently.

**Culturally Sensitive Care** - Training healthcare providers in cultural competency and developing ethnically sensitive healthcare services to reduce stigma and make healthcare settings more welcoming to migrants.

**Community Engagement** - Strengthen the role of community networks and NGOs in providing SRH services and support, leveraging their trust within the migrant community to improve healthcare access.

The analysis reveals that insecure legal status, as highlighted in the interviews, significantly restricts healthcare access. According to the Migration and Health Framework, legal documentation is crucial for ensuring health access and mitigating vulnerabilities. Additionally, studies should examine the impact of policy changes and community-based programmes on the

health and well-being of political migrants. It will be essential to understand the intersectionality of gender, legal status, and socioeconomic factors in order to develop comprehensive and inclusive healthcare policies. Myanmar political migrants in Mae Sot can benefit from targeted interventions and improved access to SRH services by addressing these barriers and facilitators. This research contributes to the broader discourse on migrant health and underscores the importance of inclusive and equitable healthcare policies.

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# Extraterritorial Reach of EU Directive on Corporate Sustainability Due Diligence: The Case Of Myanmar Workers' Rights

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## Abstract

The aftermath of Myanmar's Spring Revolution has devastated the country's socio-economic endeavours, impacting the lives of all citizens. This article specifically highlights the plight of Myanmar workers in the garment sector who are being exploited due to the lack of effective labour rights protection by the government. It explores alternative ways to protect these workers. The European Union's Directive on Corporate Sustainability Due Diligence (the EU Directive) has recently been approved by the European Council. It is currently on the verge of being interpreted by its member countries. This Directive mandates and legalizes Human Rights Due Diligence (HRDD) for multinational corporations. In particular, it requires them to oversee HR protection practices throughout the entire value chain and holds them accountable for any adverse human rights impacts caused within such value chains. This article assesses whether this Directive could serve as an alternative for protecting the rights of Myanmar's workers. The analysis posits that, in theory, the Directive's extensive scope could encompass Myanmar. Thus, the mandatory HRDD requirements of the EU Directive could potentially offer effective labour rights protection for Myanmar's workers.

**Keywords:** Business and Human Rights, Myanmar, Mandatory Human Rights Due Diligence

## Introduction

The coercive rule of the Myanmar military and the active participation of workers in resistance protests have led to severe monitoring and actions against trade unions. According to the Business and Human Rights Resource Centre, at least 55 trade union activists have been killed, and 301 union leaders and labour movement members have been arrested. The Ethical Trading Initiative's report identifies "forced labour" in Myanmar, citing ILO indicators such as abuse of vulnerability, deception, restriction of movement, and more.

Workers face horrific conditions with ineffective grievance mechanisms, lacking trust in the system and fearing retaliation. Employers control the formal grievance system under the Labor Dispute Settlement Law, discouraging complaints and undermining the system's credibility. Additionally, workers face pressure and threats from military and labour authorities, including coercion to compromise with factory owners, dismissals, and threats of arrest.

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This situation highlights the urgent need to protect workers' rights without relying on government-led grievance systems. This study argues that the EU Directive on Corporate Sustainability Due Diligence (EU Directive), with its mandatory Human Rights Due Diligence (HRDD) and extraterritorial scope, has the potential to provide the necessary protection.

## **Methodology**

This paper mainly uses the doctrinal research method. It utilises secondary data to analyse the ongoing situation of Myanmar workers in the garment sector and to track the progress of enforcing the EU's Directive on Corporate Sustainability Due Diligence. All relevant data for my research is collected from various sources, including but not limited to research papers, reports, journals, articles, laws, rules, regulations, orders or directives, news releases, and press releases, either published on paper or in digital format.

## **Literature Review and Conceptual Framework**

Human Rights Due Diligence (HRDD), introduced by the UN Guiding Principles on Business and Human Rights (UNGPs), involves assessing impacts, acting on findings, tracking responses, and communicating results. These elements are referenced in soft-law instruments like the OHCHR Principles, ILO Tripartite Declaration, OECD Guidelines, and the UN Global Compact's Ten Principles.

Although initially voluntary, the need for stronger measures led to mandatory HRDD in international and national legislation, including the EU Directive. Proposed by the European Commission in February 2022 and approved by the European Parliament in April 2024, EU member countries must implement the Directive within 2-3 years. The Directive's mandatory HRDD measures, based on UNGPs and OECD Guidelines and its extraterritorial scope, aim to protect the rights of Myanmar garment workers by ensuring comprehensive due diligence across global supply chains.

## **Findings**

First, the EU Directive embodies the extraterritorial quality. This quality can be found specifically in its Scope of Applicability (Article 2) and Extension of Mandatory HRDD Requirements (Article 6).

### **A. Scope of Applicability**

Article 2 of the EU Directive mandates that all EU limited liability companies with 1000+ employees and EUR 450 million+ in net turnover and their parent groups fall within its scope. Additionally, companies with franchising or licensing agreements in the EU generating over EUR 80 million, with at least EUR 22.5 million from royalties, are included. Non-EU companies meeting similar financial criteria and those with substantial EU market engagement are also subject to the EU Directive. This ensures the EU Directive's extraterritorial reach, applying to both EU and significant non-EU entities operating within the EU market.

## B. Extension of Mandatory HRDD Requirement

The EU Directive extends HRDD regulations to non-EU companies through Article 6, which mandates companies to identify and assess adverse impacts from their operations, subsidiaries, activities, and business partners. Companies must then take measures to prevent or mitigate these impacts. This broad scope covers not only companies within the threshold but also their contractors, suppliers, and subcontractors, even if they are not based in the EU. Consequently, many companies with global operations will need to comply due to their business relationships with EU-based multinational corporations. In this regard, the Scope of Mandatory HRDD Requirements imposed by the Directive is illustrated with the following scenario:

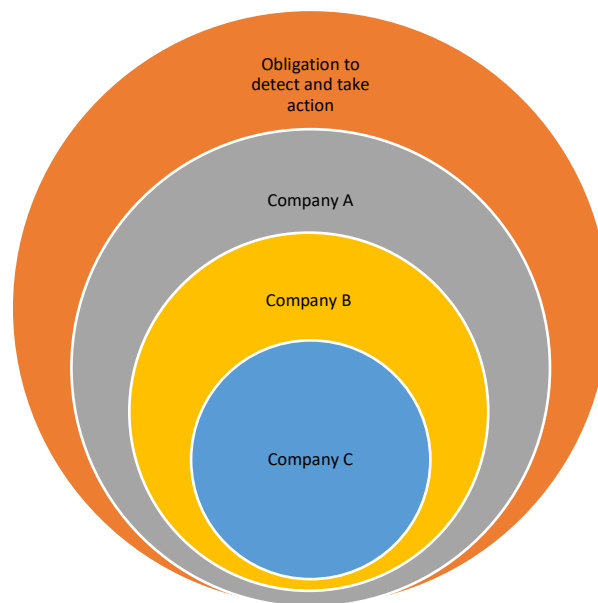


Figure 1: Illustration of the Scope of Mandatory HRDD Requirement by the EU Directive

Illustration (1):

- Company A is a limited liability company incorporated in the EU with 1000+ employees and EUR 450 million+ in net turnover worldwide.
- Company B is a limited liability company incorporated in Thailand that supplies fabrics manufactured in a factory situated in Kanchanaburi, Thailand to Company A.
- Company C is a limited liability company incorporated in Myanmar that supplies raw materials required for producing fabrics in Thailand by Company B.
- In this scenario, Company A must ensure that no adverse Human Rights impact is caused by Company B or C by conducting mandatory Human Rights Due Diligence and taking necessary action.

Per this illustration, the EU Directive will likely persist in the test of complicated global supply chains and cover all companies engaged in the webs of multinational corporations' entire chain of activities.

Second, the EU Directive sets out mandatory HRDD requirements that can effectively protect labour rights. There is a growing global consensus that HRDD alone, without imposing liability against the companies for non-compliance towards HRDD standards or HR violations, is not enough to change corporate conduct and uphold the HR standards successfully. This is evidenced by empirical studies conducted by the German government and the Corporate Human Rights Benchmark (CHRB), which produced similar results. This realization has led to the international push towards adopting mandatory HRDD measures. This push has resulted in the introduction of legislations that embody mandatory HRDD requirements in national and regional laws, including the French Duty of Vigilance Act, the Dutch Child Labour Due Diligence Act, the German Corporate Due Diligence in Supply Chains Act, the UK and Australian Modern Slavery Act, Norwegian Transparency Act, as well as the EU Directive.

This global transition necessitates testing the effectiveness of mandatory HRDD. According to Charles de Visscher, a former ICJ judge, "effectiveness" in international legal principles is determined by how well the law achieves its purpose. Under this definition, achieving a legal principle's purpose requires effective laws and practices. The EU Directive's effectiveness should be measured by how well multinational corporations protect human rights as intended by the Directive. Since the Directive is still being implemented, its effectiveness cannot yet be assessed. Therefore, this paper uses existing similar legislation to evaluate the EU Directive's potential effectiveness.

In this regard, the French Duty of Vigilance Act (the "French Act") is used for this analysis as it embodies similar elements to the EU Directive and shares a similar purpose. It is also highly regarded as an important model due to its attempt to directly influence the operation of the companies. The comparison between the texts of the two legislations is found in the following:

#### Scope of Applicability:

The French Act targets large companies with over 5,000 employees in France or 10,000 abroad, applying to specific corporate types. The EU Directive has a broader scope, covering EU and non-EU companies with a net turnover of EUR 450+ million and 1,000+ employees. It focuses on economic presence in Europe to prevent avoidance.

#### Mandatory HRDD:

Both the French Act and the EU Directive require companies to create plans for HRDD, but the EU Directive is more detailed. It requires identification and mitigation of both actual and potential adverse impacts, stakeholder engagement, and public disclosure. The French Act's vagueness in key terms and relationships is addressed more precisely in the EU Directive.

#### Corporate Accountability:



The French Act relies on courts for enforcement with pre-emptive and post-harm claims, placing the burden of proof on claimants. The EU Directive includes administrative and civil liability, with supervisory authorities ensuring compliance, enabling class action, and requiring evidence production from companies.

As such, a closer look at the differences and similarities between the French Act and the EU Directive is provided in the table below:

Table 1: Comparison between the French Act and the EU Directive

|   |   |
|---|---|
| <p>Companies must create and enforce a vigilance plan to identify risks and prevent serious human rights violations that could occur directly or indirectly from their activities and supply chains.</p>  | <p>Companies must map their own operations, those of their subsidiaries and, where relevant, their business partners' activities. They are required to conduct a thorough assessment of all operations to identify potential and actual adverse human rights impacts. Based on this assessment, companies should implement appropriate measures to prevent and mitigate potential adverse impacts and effectively address any existing impacts.</p>   |
| <p>Non-compliant companies may face injunctions, and the law permits civil action by victims seeking compensation for damages caused by non-compliance.</p>   | <p>Non-compliant companies may face injunctions, remedial action, pecuniary penalties, reputational penalties, and civil liabilities.</p>   |
| <p>The French Act's obligation to identify and prevent adverse human rights and environmental impacts is limited to a company's activities, its subsidiaries, and its subcontractors and suppliers with whom it has an "established commercial relationship."</p> | <p>The obligation to identify and prevent adverse human rights and environmental impacts extends to a company's operations, its subsidiaries, and, where relevant to their activity chains, their business partners.</p>  |
| <p>The French Act targets large companies and groups with at least 5,000 employees if their headquarters are in France and at least 10,000 employees if they are abroad.</p>  | <p>The EU Directive applies to all EU limited liability companies and parent companies with over 1,000 employees and a net turnover exceeding EUR 450 million worldwide in the previous financial year. It also targets non-EU and parent companies with a net turnover exceeding EUR 450 million within the EU in the preceding financial year. Additionally, the scope includes all EU and non-EU companies or the ultimate parent company of a group with franchising or licensing agreements in the</p> |

|  |   |
|--|---|
|  | EU that ensure a common corporate identity with a worldwide turnover exceeding EUR 80 million, provided that at least EUR 22.5 million of this turnover is generated by royalties.          |
| The French Act does not address existing legal hurdles in civil enforcement for tort victims, such as the burden of proof. | The EU Directive obligates the member states to ensure that upon reasonable request by the claimants, the national courts may order the companies to provide evidence relevant to the case. |

Here, it is observed that although the EU Directive and the French Act embody similar provisions, the EU Directive is significantly more detailed and precise than the French Act.

The French Act also has enough data to analyse its impact on the HRDD practices of French companies, which are the frontrunners in mandatory HRDD legislation. According to the study done by Lafarre and Rombouts, which compares the companies that are required to comply with mandatory HRDD and those that are not over 7 years (2014-2020), it was found that the French Act "seems to have had a significant positive effect in compelling laggards (i.e. companies with lower Human Rights Scores provided in Definitive Environmental, Social and Governance (ESG) database) to increase their efforts towards more sustainable business models in which workers' rights and other human rights are more effectively protected."

The success of the French Act in changing corporate conduct and its similarities to the EU Directive suggests a positive outlook for the Directive's effectiveness. Although comprehensive data on the EU Directive's impact is not yet available, its provisions are expected to influence human rights protections, including those of workers.

Thirdly, the EU Directive can reach Myanmar through economic relations between the EU and Myanmar. Economic relations between the EU and Myanmar companies are primarily in the garment sector, typically as supplier-buyer relationships. According to the Myanmar Garment Manufacturers Association, 549 factories in Myanmar produce garments, footwear, handbags, and travel goods. The Open Supply Hub lists 588 factories. Among EU buyers, H&M Group is an example for this article because of its expressed economic relations with Myanmar suppliers. As of November 2023, H&M worked with 36 factories in Myanmar.

H&M Group is one of the companies that falls under the threshold of the EU Directive. Some of its characteristics are as follows. H&M Group is a Swedish public company listed on Nasdaq Stockholm. In 2022, H&M had a revenue of SEK 224 billion (USD22.42 billion USD), employing 150,000 people globally with an average of 106,552 employees. H&M owns several brands, including H&M, COS, and Monki, and holds shares in 12 subsidiaries, mainly in the EU. The EU is H&M's largest market, with 2,141 out of 4,375 stores worldwide.

The following table compares the EU Directive's threshold requirements and the Group's characteristics.

Table 2: HM Group as Limited Liability Company

| EU Directive's Threshold  | Group's characteristics   |
|---|---|
| Being a Company incorporated by the legislation of an EU Member State | Incorporated in Sweden (one of the EU member countries)   |
| Being a limited liability company                                     | Swedish public limited company  |
| Having a net worldwide turnover of EUR 40 million+                    | a worldwide revenue of SEK 224 billion in net sales, i.e., USD22.42 billion (EUR 20+ billion) in 2022 |
| Having 250+ employees on average                                      | 106,552 employees   |

As shown in Table 2, H&M Group meets the EU Directive's threshold and must perform mandatory HRDD. This involves assessing all participants in their business ventures for potential adverse impacts and taking measures to prevent or mitigate these impacts. Therefore, H&M Group must include Myanmar suppliers in these assessments and implement preventive measures. This demonstrates that the EU Directive can extend to Myanmar as long as EU companies operate in its market.

Finally, the EU Directive has the potential to effectively protect the rights of Myanmar workers in the garment sector because it embodies the mandatory HRDD elements that are lacking for these workers. Garment sector workers in Myanmar face deteriorating labour rights protections, often experiencing forced labour as defined by the ILO. Due to job scarcity from the 2021 military coup and ongoing revolution, they are compelled to work in these conditions. Additionally, they lack proper grievance mechanisms and trust in government-led dispute resolution. To protect labour rights effectively, the following gaps must be addressed:

- 1) Thorough Assessment of Labor Rights Violations
- 2) Access to Justice and Grievance Mechanisms
- 3) Responsible Exit Strategy

The EU Directive includes provisions to address these gaps.

- 1) Thorough Assessment of Labour Rights Violations

Detecting violations is crucial for prevention and mitigation, as seen with H&M, where forced labour reports persist despite internal policies. H&M's comprehensive Human Rights Policy and Sustainable Impact Partnership Program (SIPP) aim to ensure suppliers meet standards, yet reports indicate significant abuses, including wage reduction, unfair dismissal, and gender-based violence. This highlights the ineffectiveness of voluntary measures.

The EU Directive addresses this by mandating companies to conduct thorough Human Rights Due Diligence (HRDD) for all production processes involving Myanmar companies. This process includes effective stakeholder engagement, independent reports, and complaint procedures alongside their research. The Directive's administrative and civil liabilities incentivise companies to improve their internal procedures.

## 2) Access to Justice and Grievance Mechanisms

Myanmar workers face ineffective grievance mechanisms due to a lack of trust in the system and fear of retaliation, often discouraged from raising complaints by employers who control the formal grievance system under the Labour Dispute Settlement Law. This exploitation undermines the credibility of the grievance system.

The EU Directive can fill this gap as it requires the companies to set up a complaint system through which legitimate concerns regarding actual or potential adverse impacts regarding the company's or partners' operations can be communicated by any concerned individuals, including workers' representatives and civil society organisations. Companies must also make the complaint procedure transparent and public, and complainants are prevented from retaliating by keeping their identities confidential. They are entitled to request follow-up, meet with the company's representatives, and be provided with proper reasoning. Also, when a company has directly or jointly caused a real adverse impact, the company must take steps to remedy the harm done.

Relating to the obligations towards mandatory HRDD, the EU Directive also laid down civil and administrative liabilities against the companies that fail to comply with the EU Directive, and such failure has led to an adverse effect that should have been detected otherwise. This failure will cause the companies to remedy and, upon failure to do so, will be subjected to penalties and, in case of civil action, pay damages. In this regard, the EU Directive also removes potential barriers in the hearing process before the court to ensure that the victims can access justice.

## 3) Responsible Exit Strategy

The EU Directive requires companies to follow several steps, including providing support and imposing corrective action plans before deciding to halt business relations with a partner. This layered approach is suitable for Myanmar because the exit of companies often worsens workers' conditions. The Ethical Trading Initiative (ETI) estimates that 320,000 workers would lose employment or face reduced incomes if European buyers withdrew, causing significant job loss, decreased working hours, and increased reliance on self-employment. This would put around 23,000 people at risk of extreme poverty. Therefore, leaving the country responsible or irresponsible is not the solution; Myanmar needs support to uphold international human rights standards. The EU Directive's requirements include having a prevention action plan with clear timelines, independent third-party verification, and support for business partners. This support includes resources for capacity building, training, upgrading

management systems, and providing targeted financial assistance. The Directive's approach to working with partner companies through comprehensive mandatory HRDD requirements will lead to significantly better outcomes in labour rights protection.

## **Conclusion and Recommendation**

This study highlights the violation of labour rights, especially freedom of association, elimination of all forms of forced or compulsory labour for Myanmar workers in the garment sector, and the workers' inability to rely on the government-led dispute resolution mechanism for grievances. Thus, alternative solutions are needed to protect their rights. As such, this study argues that the EU Directive can assist with such protection by using EU companies with economic relations with Myanmar companies as proxies to implement mandatory HRDD measures.

As such, to ensure that the EU Directive can reach Myanmar, it is recommended that the European Union and the Worker Organizations should work together to ensure that the EU companies continue working with Myanmar suppliers. For the EU, recognizing that the potential exists for the EU companies may steer away from high-risk countries such as Myanmar to avoid additional requirements, it should take initiatives in sharing the implementation cost by assisting with monitoring and certification at the country level, providing incentives for the multinational corporations committing to promoting labour standards in risk-prone countries that need protection such as Myanmar, providing trade incentives for working with Myanmar suppliers to eradicate forced labour and impose HRDD practices, and supporting with capacity buildings and spreading awareness for Myanmar suppliers. For the Worker Organizations, recognizing the importance of EU market access and the impact of job losses being more devastating for Myanmar workers, they should call for the EU companies to continue working with the Myanmar companies instead of ceasing the operations and pay close attention to the compliance of Myanmar companies with mandatory HRDD procedures set out by respective companies. Worker organisations should also empower workers in case of non-compliance to ensure they have access to grievance systems.

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# THE CHANGE THAT CAME: EXPLORING THE LINK BETWEEN HUMAN RIGHTS AND RODRIGO DUTERTE’S PRESIDENTIAL ELECTORAL CAMPAIGN

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## Abstract

The 2016 Philippine presidential elections were arguably one of the most controversial elections in the country, with the Duterte camp successfully pioneering social media campaigning through Facebook. The rise of digital spaces during this period enabled electoral campaigns to circulate farther and faster, including a higher turnover rate of discourse topics among the electorate. For Duterte, one key area of discourse was human rights – notably, an apparent disdain for it. This paper aims to explore Former President Rodrigo Duterte’s presidential electoral campaign messaging, how and which human rights were involved and affected by this messaging, and how these messages transformed throughout the 90-day campaign period in 2016. This study will examine recorded or televised speeches, interviews, and debates that the then-presidential candidate participated in from February 9, 2016, to May 8, 2016, ensuring that the statements came from Duterte himself. The gathered statements will be organized and analyzed by theme, following prominent human rights issues during this period. Considering the absence of not only an application of Merry and Levitt’s theory of vernacularization of human rights in the context of Rodrigo Duterte’s presidential campaign but of *any* significant study into Duterte’s campaign messaging, this paper seeks to add this dimension to the study of human rights in the Philippines. This paper thus bridges a glaring gap in exploring the drastic democratic backsliding that happened in the Philippines starting in 2016 by primarily looking into the phenomenon of Duterte’s presidential electoral campaign, in turn arguing that the process of changing perspectives on human rights – concerning vernacularization, institutionalization, and other similar processes – is directly correlated to the degree of political transformation in any democratic state.

**Keywords:** human rights, vernacularization, Philippine elections, Rodrigo Duterte

## Introduction

*“Change is coming.”*

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This statement was then-presidential candidate Rodrigo Duterte's notorious catchphrase, seen all over his campaign paraphernalia. His supporters held onto this promise as a hopeful chant, eager to see what the Davao City mayor could bring to the nation after transforming the city from a crime hotspot into a booming economic hub (Heydarian, 2018, p. 23). Behind past policies that primarily targeted the people experiencing poverty, however, Duterte had an unabashed disdain for human rights (You, 2018). From his position in the Davao City local government unit, Duterte already established a reputation — not just as mayor, but for one that links him to the vigilante group called the Davao Death Squad (Kine, 2015).

This did not upset his supporters; they instead lauded him for his provocative candor as he cursed onstage and proclaimed orders to kill, basking in the novelty of a presidential candidate who seemed unafraid to do anything — even murder — in the name of improving the state of the country. Duterte himself wears this identity well, claiming that this is the kind of force that the country needs and the only reason why he ran for president is to “save the country from being fractured” (Cardinoza et al., 2015).

The breadth and depth of the public's approval of Duterte's messaging around human rights offers a challenge to human rights scholars. Duterte has proven that his power and influence can shape popular conceptions of human rights, having control over the process of vernacularizing human rights narratives, and thus shifting perceptions on what is “acceptable” and “justifiable.”

There is a lack of study into Duterte's campaign messaging, so this study aims to address this gap. This paper is part of a master's thesis. It focuses on the phenomenon of vernacularization during Duterte's presidential campaign, which pivoted the public perspective on what they believe human rights are.

## **Methodology**

Recorded interviews of then-presidential candidate Rodrigo Duterte held and published between February 9, 2016, to May 8, 2016, were gathered with consideration for the reliability and reputation of the publishing sources. These interviews consisted of speeches during sorties, events, individual interviews, and debates during the election campaign period. Table 1 shows the dates and the events where statements were collected.

| <b>Date</b>       | <b>Event</b>  |
|-------------------|---|
| February 9, 2016  | Duterte-Cayetano campaign kick-off rally held in Tondo, Manila    |
| February 10, 2016 | Go Negosyo Talks: Meet the Presidentiables forum                  |
| February 10, 2016 | Campaign in Tuguegarao City                                       |
| February 11, 2016 | Campaign in Batangas  |
| February 18, 2016 | Ambush interview from INQUIRER.net                                |
| February 21, 2016 | First leg of PiliPinas Debates 2016 held in Cagayan de Oro        |
| March 6, 2016     | Campaign in the Bicol Region                                      |
| March 7, 2016     | Campaign in Antipolo City   |
| March 11, 2016    | Transparency Forum at the University of the Philippines Los Baños |
| March 19, 2016    | Mini-dialogue with tricycle drivers in Quezon City                |
| March 20, 2016    | Second leg of PiliPinas Debates 2016 held in Cebu                 |
| March 30, 2016    | Ambush Interview from TV Patrol in Quezon Province                |
| April 8, 2016     | Guns, goons and the presidency: Documentary by 101 East           |
| April 16, 2016    | Campaign in Amoranto Sports Complex, Quezon City                  |
| April 21, 2016    | Campaign in Iloilo City   |
| April 21, 2016    | Campaign in Kalibo, Aklan   |
| April 24, 2016    | Third leg of PiliPinas Debates 2016 held in Pangasinan            |
| April 27, 2016    | Makati Business Club forum  |

Figure 1: *Dates of key events during Rodrigo Duterte's presidential campaign that were recorded, published online, and contained statements used in this study*

Prominent statements made by Duterte himself that mention anything relating to human rights were collected and transcribed. A total of 74 statements were gathered between these 18 different events.

These statements were then categorized into themes based on individual rights, such as the right to life, the right to be presumed innocent until proven guilty, children's rights, and women's rights. Afterward, these statements were then examined using content analysis of Merry and Levitt's (2017) theory of vernacularization. These were then individually discussed per theme, demonstrating how Duterte has maneuvered these narratives to fit into his campaign messaging.

## **Discussion**

Merry and Levitt (2017) discussed how the pre-existing ideologies and practices of some social groups similar to those of human rights allow these groups to understand the abstractions of human rights. However, Merry and Levitt also highlight what they coined as

the “resonance dilemma” — that this attunement of a foreign concept to a more local concept makes it easier to integrate into their culture and traditions but harder to challenge fundamental norms that may be contradictory to the foreign concept itself. The process of vernacularization is also dependent on intermediaries — highly influential people who may bridge the gap between new concepts and pre-existing ones (Merry, 2006).

Rodrigo Duterte has been part of the local government unit of Davao City since 1986. Through these years, Davao City has been infamous for persisting crime and murder in the city (Branigin, 1985). Residents of the city attribute the sharp turn of the city’s reputation and economic growth to Duterte, who served as mayor for 22 years, non-consecutively (Dacumos-Lagorza, 2017). This is something Duterte has proudly and frequently referenced during his campaign for the presidency and hoped to replicate for the rest of the country (Coronel, 2016). Curato (2016) discusses how Duterte’s “penal populism” is dependent on the politics of anxiety and hope, utilizing the fears and concerns of the people, implanting an image that causes them distress, and quickly following up with visualizations of hope — what society would be like without their perceived stressors. Duterte’s populism presents him to be a “hero” — the iron fist that the country seemingly needs to get rid of corruption and criminality once and for all with his promises of radical change, relentlessly echoed by his infamous tagline “change is coming” (Casiple, 2016). Following his mayoral stint in Davao City, and broadcasting those experiences at the national level, Duterte built a significant amount of influence and was able to exponentially increase this during the campaign period (Ong and Flores, 2016). Thus, Duterte may be considered an intermediary in vernacularizing human rights in the Philippines.

## **Findings**

In the few times that Duterte explicitly mentioned “human rights” during his presidential campaign, it was mentioned with contempt. He first mentioned it during a forum on February 10, 2016, saying that in case the police get in trouble, or someone uses human rights as an argument to go against them when he orders them to go after criminals, he would grant them a presidential pardon. During a speech while campaigning in Antipolo City, he also mentioned that human rights are just an excuse to embolden criminals. He also questioned why the Commission on Human Rights has not filed a case against him if he has been killing people. During his campaign speech in Kalibo, Aklan, he also cursed upon mentioning human rights because of the lawsuit he mentioned he was facing. Even when Human Rights Watch (2016) sent all presidential candidates a questionnaire on key human rights issues in the Philippines more than a month before election day, Duterte was one of the two who did not respond. Simply by casting human rights in a negative light in passing, or disregarding them otherwise, Duterte shaped the narrative around it among his voter bases.

Hapal (2019) discusses Duterte’s “alternative” take on human rights, centered on the discourse of the Filipino view of “dapat” — what is “right”, or “what should be.” In the context of how Duterte envisions a world without drugs, killings or any verbal threats in the direction of killings are given justification on the premise of being meted out against those who “deserve it more,” which, as specified by Duterte, are those who threaten and are thus *not* “law-abiding and God-fearing citizens.”

Succeeding sections will discuss how Duterte talked about specific human rights; if applicable, how these perspectives range from inaccurate to outright contradictory to human rights; and how this affected the perception of human rights in the country due to his influence using the theory of vernacularization.

While there are other rights he did speak about in the campaign trail — for example, education, food, and health — such discussions did not spark or contribute to the specific vernacularization of human rights characteristic of his administration moving forward. As such, this study will not cover all possible human rights involved in Duterte’s speeches and interviews.

### *Right to life*

The right to life is the most prominent theme among the statements gathered. However, this is not in the interest of preserving life, but due to the incessant repetition of threats of murder towards criminals and drug users. Duterte repeatedly mentioned that if he wins as president, he will order the police and the military to go after all the criminals and kill them. He also mentions how the only way to improve the situation of the country and restore public order is to kill those who violate the law.

Furthermore, this is not only limited to orders to the police and the military. Duterte has constantly mentioned how he is willing to kill criminals and drug users, and how he has killed many such individuals in the past. He further emphasizes this sentiment by saying that one cannot be president if they are not willing to kill or be killed. He also stated how it is not wrong to kill people as long as they are not innocent and has expressed his favor for reinstating the death penalty.

These actions trivialize the value of human life and enable an arbitrary judgment system based on morality and “deservedness” that leaves no room for redemption and rehabilitation. This then leads to the arbitrary deprivation of life of the so-called criminals and drug users without a chance to defend themselves or amend wrongdoings.

In his speeches, Duterte often starts with imagery of violence and disorder, painting a picture of what society may end up being, according to him, should he stop killing criminals. For instance, he mentioned the following statement just as his campaign started:

Now, what are you going to do when you leave your house? There are many drug users here. When you leave, they will climb over your house. They will rape your spouse, your maid, and your children. Even if they are only 11 months or 18 months. That happened in Davao. (Rappler, 2016)

Following Curato’s (2016) discussion on the politics of anxiety and hope, this statement was meant to instill fear. This was shortly followed by a reiteration of Duterte’s promises of ordering the police and military to hunt down the drug users and criminals and to kill them.

### *Right to a fair trial and to be presumed innocent until proven guilty*

The discussion on the right to a fair trial goes hand-in-hand with the discussion on the right to life, as Duterte expressed the intent to kill criminals or to order the police and the military to kill criminals without going through legal investigation and trial. When asked by a reporter during an ambush interview on March 30, 2016, whether he was ready to kill without due process, he answered, “Maybe.” (TV Patrol, 2016)

This further accentuates the idea of morality and “deservedness” as a basis for judgment, rather than an actual court trial based on the country’s laws. Duterte deems himself as the arbiter for who would be good enough to be spared and has given the people a “license to kill” (Bouckaert, 2017). He also assures the police and the military that he will protect them should they get into trouble for following his orders to kill criminals, and that he will be generous in giving out presidential pardons.

Duterte also mentioned how he would assume full responsibility for the police and the military’s actions should anyone — including the ombudsman and human rights defenders — ask for accountability. This paints both human rights institutions and due process of law as negligible in the pursuit of “justice,” whether for the lack of vindication or swift decisiveness his politics espouses.

### *Right to liberty and security, and the right to privacy*

Similar to the previous rights discussed, Duterte talks about the right to liberty and security based on “deservedness.” As a result, there are two different ways he discusses this: first, as something to be provided for the “law-abiding and God-fearing” Filipino people, as he mentions that this is his duty should he be president. He mentions that this will be achieved through increasing the funding for security and defense and increasing the wages for policemen and military personnel. As also mentioned earlier, he plans to order the police and the military to kill criminals and drug users in the name of fulfilling his vow to eradicate corruption, criminality, and drug use in the country within three to six months.

Second and in contrast, Duterte has urged the police and the military to do whatever it takes to find and kill criminals — even if it means breaking down their doors. Thus, this also violates one’s right to privacy, as this is arbitrary interference in their family and their home. This was expressed when he mentioned during a campaign speech on February 11, 2016, that voluntary surrender would not be accepted. The only way is to kill the criminals and drug users, and if they are inside their houses, the police and the military should force their way in.

### *Freedom of information and freedom of expression*

Freedom of information and freedom of expression are two things Duterte seems to feel very strongly about. He declared that the Freedom of Information Bill<sup>2</sup> is important and it must be made into a law. Moreover, he said that freedom of speech is a sacred right, and nobody can question what he says. Despite this, he recognizes that there may be people who do not share

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<sup>2</sup> Signed into an Executive Order in July 2016.

his opinions, stating that “freedom of expression is very important. I may disagree with what you said, but I will defend your right to say it.” (INQUIRER.net, 2016)

However, this sentiment also enabled his vulgar humor and irreverence that led to unsavory jokes about rape victims and miming people with disabilities, even going as far as recalling how he mockingly told a person with a disability to “just die”. (GMA Integrated News, 2016) While Duterte considers his freedom of expression sacred, he cannot fathom the responsibilities involved with this right. Should anyone follow his suit, this provides a “free pass” for anyone to say anything in the guise of merely expressing themselves without a thought of possible consequences.

### *Women’s and children’s rights*

Then-presidential candidate Duterte often uses women and children as examples when he needs to paint a picture of a violent society caused by criminals and drug users. He says that he never killed a woman or a child and sees them as people who need protection. He takes pride in Davao City being the first city in the country to come up with a Women’s Code. He also mentions that he created a policy in the city wherein the police are not allowed to arrest commercial sex workers despite it being illegal and has ordered that only the city health workers may “arrest” them.

However, this is entirely in contrast as he jokes about rape victims. A video of Duterte talking about Australian missionary Jacqueline Hamill, who was raped during a prison riot in 1989, during a campaign speech first surfaced through an unidentified YouTube account but was later reported on by many news sites (Corrales, 2016). During this event, Duterte said:

What came into my mind was, they raped her! They lined up for it! Son of a bitch, I got angry. Because she got raped? Yes, that’s one of the reasons. But she’s so beautiful, the mayor should’ve been first. What a waste. (ABS-CBN News, 2016)

Another video shows Duterte, seemingly during a campaign speech, narrating a time when he sexually assaulted their house helper while he was still a student at Ateneo de Davao University<sup>3</sup>. While this video did not go viral due to the account’s lack of following and the lack of media coverage, Duterte repeated the same story later — this time as the president of the country — finally causing outrage (Cepeda, 2018).

Talking about women in this manner and trivializing something as dehumanizing as rape isolates these issues from the roots of human rights and works more in favor of perpetuating an existing culture of violence against women.

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<sup>3</sup> This was excluded from the data analyzed due to the unreliability of the account that uploaded the video, and the lack of reports and data that would cross-check details of the incident.

### *Right to work and the right to form trade unions*

When asked about contractualization, colloquially known as “endo<sup>4</sup>,” he promised to end it the moment he assumed the presidency. However, Duterte once again contradicts himself as he asks labor unions to halt and threatens to kill them if they continue. Similarly, he states that there is a need to kill those who are a hindrance so that the economy can finally improve.

While seemingly in favor of the right to work, even willing to provide proper resources to fulfill it, placing a large caveat on the right to labor organization separates these two concepts from each other – one as livelihood, but the other as being “against” government.

### **Conclusion**

Despite his repeated threats of killing, anecdotes of murder, and crass remarks on women and people with disabilities, Duterte remained popular and ultimately won the 2016 presidential elections. His blatant disregard for human rights — particularly, the right to life — stems from the idea that people who have done any crime or drugs are irredeemable, and the only way to solve this problem is to completely get rid of them by hunting them down and killing them. He also attributes anything negative, such as economic decline, to the existence of criminals, and declares that the only way this is going to get better is to get rid of the people involved in corruption by killing them — a catch-all solution for anyone that threatens to hinder his plans.

As someone with significant influence over the discourse, Duterte pivoted the perception of human rights — from something that safeguards people to something that hinders societal growth and improvement. His campaign messaging enabled him to broadcast nationwide a belief held firmly during his 22 years of governance in Davao: only the deserving get to preserve their life, and those who commit crimes or are involved with drugs have no chance of redemption and therefore must be killed.

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<sup>4</sup> Derived from “end-of-contract.” This refers to the practice of corporations employing people for only 6 months, usually within the probationary period, and ending their contracts before they become regularized workers to avoid paying for their workers’ legally mandated benefits.



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# THE IMPACT OF ENGLISH ON EXPERIENCING OTHERNESS

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## Abstract

According to Noam Chomsky, when language learners communicate, they are not only sharing information with their listeners but also continuously organizing and rearranging their sense of self and their place in the social world. This process involves engaging in identity construction and negotiation, highlighting the dynamic interplay between language acquisition and social identity formation.

Language is not merely a neutral tool for communication; it is deeply embedded with cultural meanings, values, and practices. It reflects and shapes how individuals think, perceive the world, and interact within social contexts. In an increasingly interconnected world, the choice or necessity of speaking a particular language can significantly influence one's sense of identity. Language use also emerges as a response to the decisions, discussions, and debates that shape daily routines and identity formation within our global context.

As English strengthens its status as a global language, as part of basic education, and as an auxiliary language, the motivation to learn English is increasingly more associated with necessity, utility, power, mobility, migration, and cosmopolitanism. Consequently, it is essential to analyze the processes of language utilization, preservation, and transformation within the context of educational frameworks and their impact on the cultural and social development of individuals and nations.

**Keywords:** Shared Identity, otherness, global language, impact, case study.

## Introduction

Currently, everyone is born with the right to nationality, a principle established by the Universal Declaration of Human Rights, adopted in 1948 by the members of the United Nations. This declaration affirms that every individual has the right to a nationality, meaning they should have a recognized legal affiliation with a nation.

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Over time, it might be expected that nationals will reaffirm their nationality with other aspects related to their national identity by engaging with and participating in their nation's political, social, and cultural aspects. Such engagement encompasses a complex interplay of historical, cultural, linguistic, and social factors that collectively contribute to a sense of belonging and shared identity among the members of a nation.

Identity, according to various scholars from different disciplines, represents a fluid element that evolves and transforms over time and space. This fact suggests that shared identity based on the nation we live in may undergo a similar process. Both internal and external factors can shape the way in which we perceive our national identity. Internally, political changes, social dynamics, and cultural developments can influence this shared identity. Globalization, migration, and international relations can impact how this shared identity is formed and understood.

Language serves as an element of identity that individuals share with others, fostering a cohesive effect. This shared linguistic practice can generate trust within a group, allowing individuals to understand each other, thus cultivating a sense of shared identity.

In ASEAN countries, English holds significant importance, as it has been established as a working language among its members since its inception. Specifically in Thailand, while English is not an official language, it is widely used, which is evident in both private and public spaces, especially in its capital, Bangkok, allowing one to navigate the city without any competence in the official language, Central Thai. Additionally, with the formation of the Committee to Draft the National Language Policy (CDNLP, 2006) by the Royal Institute in 2006, policymakers have recognized Thai and English as the most important languages in the country (Committee to Draft the National Language Policy, the Royal Institute of Thailand, 2011).

Designating a language as necessary to a nation without ensuring that all individuals have the opportunity to acquire competence can create significant inequalities. Individuals who recognize the importance of English and strive for fluency will undoubtedly encounter various challenges, with one of the most profound and less visible being experiences of otherness. Proficiency in a language deemed essential yet not universally accessible can segregate those who pursue this competence, irrespective of their success. In the negotiation of a shared identity within the Thai context, English could represent distancing and segregation among its members, which warrants consideration.

## **Methodology**

This qualitative investigation involves conducting 11 interviews with Thai students taking the first year of the Political and Global Studies of the Faculty of Political Science program at Chulalongkorn University who have experience using English before the university. The data collected was analyzed using narrative analysis with the thematic method.

| <b>Participant</b> | <b>High School</b> | <b>Study program</b> | <b>Language outside classroom</b> |
|--------------------|--------------------|----------------------|-----------------------------------|
| Student 1          | Public             | Thai                 | Thai                              |
| Student 2          | N/A                | International        | English                           |
| Student 3          | Private            | English              | English                           |
| Student 4          | Public             | English              | Thai                              |
| Student 5          | N/A                | International        | English                           |
| Student 6          | Public             | English              | Thai                              |
| Student 7          | Private            | International        | English                           |
| Student 8          | Public             | Thai                 | Thai                              |
| Student 9          | Private            | English              | Thai                              |
| Student 10         | N/A                | International        | Thai                              |
| Student 11         | Public             | Thai                 | Thai                              |

Table 1. Type of school, program, and language outside the classroom

## **Theoretical Framework**

### **Shared identity**

New and deep divisions have been redesigning the social fabric in an increasingly interconnected and interdependent world. These divisions have a tinge of globalization and have been fragmenting society in ways that have fostered new problems, new passions, anxieties, and resentments based on geographical, educational, and moral bases. Rural areas are against the metropolises, and the less educated are against the more educated. In North America, Europe, and Japan, metropolitan areas are moving ahead of the rest of the country. Not only are they becoming much more prosperous than the provinces, but they are becoming socially distanced and no longer representative of the nation of which they are the capital. However, even within these large cities, the gains are widely skewed, with those who benefit most being those who are well-educated. This new segment has developed a new shared identity in which esteem comes from abilities and skills. The less educated recognize that the well-educated are distancing themselves socially and culturally. They conclude that both this distancing and the emergence of more favored groups weaken their claim for help. Their fading confidence in the future of their social safety network occurs right just as the need for it increases (Collier, 2018)

Unlike other creatures incapable of sophisticated language, humans have developed a sense of shared belonging much more quickly by using language to spread the narrative that "we belong here" and not being limited by place in achieving the awareness of belonging. Language is, in itself, an element with which we feel we identify and identify others as part of our group. Language is one of the relevant tools that countries use to promote social cohesion; however, national identity has gone out of fashion and could have undesirable results.

### **Othering**

Othering could be described as the process through which a person or group becomes somebody different from us, an “other” from whom it is possible to distance ourselves. Fundamentally, it is a relational process that happens in imagined and actual social interactions when an individual or group defines itself in contrast and sometimes against another (Wuthnow, 2017).

Although each theory has its definitions, most approaches to otherness are based on the notion that our ideas about who and what Others are (the characteristics assigned) are linked to our ideas of who and what we are (Flot, 2019).

According to Riggins (1997), othering usually implies social distancing and forming value judgments, which are frequently negative, based on preconceived notions about a group. The common discussions about othering go around distinctions such as race, class, gender, and sexual orientation. Marginalization based on subtler distinctions can manifest in various, often unexpected ways, such as inadequate diet, distinct accents, emotional expressions considered inappropriate, and any social behaviors considered unacceptable by the dominant group. Otherness could be similar to racism since this idea of difference promotes hierarchical and stereotypical thinking. As Lorde (1980) asserts, a person who deviates from the usual notion of the average woman or man or who does not meet the "mythological norm" is an Other (Bendixsen, 2013). Situations where there is a cultural difference caused by an imbalance of power or a struggle for supremacy are the most obvious ones where othering occurs (Wuthnow, 2017).

According to Julia Kristeva, the other is the foreigner, the stranger, the outsider who, despite being outside of us, lives within us and is the "hidden face of our identity." The other is not just perceived as distant but also as less worthy than we are, possibly degenerate, more easily branded, and hence more open to mistreatment. Instead of being a victim, the other person is more accurately described as someone who has not made the required adjustments to fit in or who has the emotional or mental stability to behave in a decent manner (Bendixsen, 2013).

Research about othering often indicates that it takes place typically in asymmetric relationships, with the otherized possessing less power than the "Otherizer," then how the opposite may occur is a phenomenon that is worth examining. For instance, research among working-class men suggests that African Americans sometimes set themselves above white coworkers who they claimed were not as loyal to their families or less moral, and African Americans and whites alike criticized upper- and middle-class men for being shallow and materialistic. More attention could also be given to the possibility that othering is a reaction that makes people feel more respectable when it is hard to define respectability in more positive terms due to the diversity of their social environment. (Fresnoza Flot, 2019)

## **Findings and conclusion**

### **Theme 1: Thai Self-Identification and the role of language**

The components comprising Thai identity can vary depending on the perspective from which it is examined. Legally, Thai nationality is the primary criterion, achievable through either *Jus sanguinis* or *Jus soli*, with language proficiency not a prerequisite for citizenship acquisition. All participants unanimously emphasized the significance of having at least one Thai parent as a crucial, if not definitive, aspect of their Thai identity. This familial connection often takes precedence in individuals' self-perception as Thai.

Thai identity extends well beyond mere nationality; social and cultural traditions are crucial. Adherence to certain social norms and expectations is necessary, though these can vary among individuals and influence the perception of whether someone is identified as a Thai person. Factors such as manners, language, and even physical appearance have been described as facilitators or hindrances to the identification of an individual as belonging to the Thai group.

Individual perceptions differed concerning the significance of the Thai language in shaping Thai identity. While some viewed language proficiency as integral to Thai identity, others regarded it as one among several factors, suggesting varying degrees of emphasis on linguistic competence as a marker of Thai cultural affiliation. Moreover, differences in language integration within participants' daily lives underscored the multifaceted nature of language's role in identity formation, revealing nuances in the extent to which language usage influences perceptions of Thai identity.

Proficiency in Thai was identified as an element in recognizing themselves and others as Thai; however, this characteristic did not pose a limitation for any of the participants in recognizing themselves and others as Thai.

Although all participants identified themselves as Thai and recognized the Thai language as intrinsically linked to their Thai identity, some students did not consider Thai as their first language. Despite no participants identifying themselves as native speakers of a language different than Thai, English emerged as a notable alternative within the Thai group. In addition, all students indicated that they began learning English very young, highlighting its significance alongside Thai in their linguistic repertoire.

### **Theme 2: English and group fragmentation**

English has been an integral part of participants' social lives from an early age, typically beginning with their academic experiences in kindergarten and subsequently permeating other facets of their daily communication. Some even recognize English as their first language of communication. This early exposure marked the students' initial interactions in English with individuals outside their families, contributing significantly to the integration of English into their

academic and social lives. In addition, mass entertainment emerged as the primary motivation for acquiring proficiency in the language, driving the students' efforts to improve their English skills. This exposure through entertainment media facilitated a more natural and engaging learning process, reinforcing their use of English in various contexts beyond the classroom.

While for some, English may be a preference in leisure activities, its role in academics is more significant for every participant. English holds a significant presence in both public and private Thai schools, leading to the development of various study programs taught partially or entirely in English. From public schools offering programs in English, which are often mere translations of the original Thai curriculum, to so-called international schools where the curriculum may be based on foreign academic systems, particularly those of the United Kingdom or the United States, the educational landscape provides a range of study options taught in English. This spectrum of academic offerings, spanning from primary education to higher education, reflects a diverse array of choices for students seeking instruction in English. While the majority of the participants reported the benefits of achieving high proficiency in this language, its importance in the labor field was also noted.

While all participants regarded English as a valuable tool, not all students demonstrated an affinity for the foreign language, with some reporting being unable to express essential elements of their personality when communicating in the foreign language. Whether students feel more comfortable using English or Thai outside of academic spaces can lead to tensions between those who prefer one language over the other. Testimonies were told about how choosing one language over the other complicates group integration among those identified as part of the Thai group. The choice of language in social settings, therefore, not only reflects individual comfort levels but also has broader implications for social integration and community dynamics for a couple of participants, the non-use of the Thai language may even call into question to what extent a person is integrated with the Thai community.

Throughout students' lives, subgroups based on the preferred language of communication occur in every scenario where English represents an alternative language of communication. One participant observed that within the broader cohort of international students, only a specific subset of Thai students consistently employed English both within and outside the Thai group.

Acknowledgment of fragmentation within the larger Thai student community concerning English language use and proficiency prompted investigations into associated stereotypes and expectations within the participants' social contexts regarding this language.

Most participants concurred that a strong command of English often correlates with a high socioeconomic status. They attributed this association to the substantial costs of English and international programs and the overall expense of English language education in Thailand. There is a close relation between the cost of these programs and the language of instruction, where



programs taught in English tend to be more expensive, and those with curricula perceived as more international are even more costly.

Moreover, many participants linked English proficiency with high levels of intelligence, though some contested this belief when looking outside the Thai context, arguing that English proficiency does not necessarily reflect intelligence, particularly when it is one's first language. This brings to attention that some Thai individuals regard those proficient in English as more intelligent, regardless of their country of origin.

Lastly, English was closely tied to education, with some asserting that individuals with superior communication skills in English can come from a higher level of academic achievement that can lead to better opportunities in the future. However, similar to the intelligence argument, when participants see the global context instead of the Thai context, this association was also met with skepticism, pointing out that not all residents of English-speaking countries possess a solid academic education.

Despite the stereotypes demarcated by the participants and their perceptions regarding what English represents within the different social contexts in which they have participated, they were encouraged and motivated to continue their studies of this language. Not even one of the stereotypes was perceived as negative. In fact, for some students, being identified as a person with the ability to speak English, with everything that this represents for others, has been a generally positive experience throughout their lives.

### **Theme 3: Otherness based on language choice**

Many advantages can be observed from being proficient in English throughout all participants' stories, for instance, the capacity to foster global connections, particularly with non-native speakers, and facilitate access to international academic and non-academic resources. However, concerns persist regarding their competency levels and apprehensions about potential judgment. Despite English being the second language for all participants and their competency level adequate, insecurities and fears persist regarding their speaking or writing abilities in this language.

One participant noted that students with backgrounds in international schools might have superior English abilities because they speak it all the time. This point of reference positioned the participant as less competent and less confident when using English. Moreover, a couple of participants used the word "bully" when recalling stories about speaking English in contexts where other students had a more native accent.

Among participants who chose Thai as their primary language of use, two reported discomfort and dissatisfaction when another Thai student opted to communicate exclusively in English. Among the responses from all participants, experiences of otherness are discernible in both directions. Students who prioritize the Thai language may perceive the group favoring English as

different and question the reasons for this preference given their national identity. Conversely, those who choose English as their primary means of communication often perceive their Thai peers studying the same program but use Thai as less interested or committed to their studies or even incompetent, leading them to distance themselves from them.

Participants have also reported experiencing or observing feelings of disgust towards students enrolled in different study programs despite the absence of an evident reason. Irrespective of the underlying causes, these perceptions lead students to maintain distance from colleagues with differing language preferences and experience feelings of rejection.

From the experience of one participant, it appears that paradigms and societal norms within Thai society may contribute to reinforcing the division between Thais based not only on language preference but also on attitudes that are assumed to come from outside Thailand and most probably learned through English, segregating individuals who identify as Thai but have a lack of proficiency in the national language and potentially labeling them as disconnected from Thai culture or simply incompetent on basic Thai skills.

In academic contexts where English proficiency is required for communication, it might be assumed that all group members possess a certain level of competence in this language, as admission to such programs typically necessitates a demonstrated proficiency. In theory, this should lead to a reduction or elimination of experiences of otherness within the group, as all members share a standard linguistic ability and English is promoted as the primary mode of communication. However, it has become evident that experiences of otherness persist, now centered on differences in fluency and accent. Despite varying levels of competence demonstrated through different certificates or qualifications, exposure to individuals who speak English with differing accents inevitably leads to fragmentation within the group. This suggests that, regardless of proficiency level, linguistic differences, particularly in accent, continue to serve as barriers to full integration and cohesion within the group.

All participants voiced various concerns regarding how English could divide their group from within and how different groups could look to each other because of their language preferences and proficiency. Through possible ways to face these situations, some suggested that proficiency in both languages and a mutual understanding of the diverse circumstances in which English is learned in Thailand can mitigate the impact of these divisions. Participants noted that such proficiency and understanding can even make communication between colleagues more enjoyable, using language as a bridge to bond rather than as a boundary to divide.

## **Conclusion**

Although the territorial aspect of identity can be harnessed to reestablish a sense of shared identity and national unity, it is also crucial to acknowledge the impact of globalization, which tends to pull identities in divergent directions. The process fosters new perspectives and establishes

connections among individuals who identify with these perspectives, potentially leading to a disconnect from their previous networks and ideologies.

The pervasive spread of English highlights the evolving nature of identity formation, where linguistic competence becomes a critical factor in global social integration. This phenomenon has the potential to reshape traditional notions of national identity, especially for those living in areas significantly impacted by the use of this language. To what extent do the ideologies underpinning globalization reshape the world's cultural diversity, potentially aligning them towards a singular ideal? How could people and countries' education, cultural, and social development be protected within our globalized world?

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# LEVERAGING INDUSTRY 4.0 FOR CIRCULAR ECONOMY TRANSITIONS: INSIGHTS FROM SIERRA LEONE'S S.M.E.S PROCESS INNOVATIONS

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## ABSTRACT

In a world facing increasing resource constraints and environmental issues, transitioning from a linear to a circular economy is crucial for sustainable development, especially for small and medium-sized businesses in developing nations such as Sierra Leone. This research delves into how Sierra Leone's small and medium enterprises are embracing circular economy principles with the help of Industry 4.0 technologies. This research pinpoints the key factors supporting or hindering circular economy implementation in process innovation by conducting twenty structured interviews with industry specialists and analyzing themes. Our results emphasize the role of Industry 4.0 in promoting a circular economy and shed light on challenges related to a lack of resources, technological infrastructure, and market conditions. By outlining factors that aid or impede circular economy adaption, this study contributes to understanding how small and medium enterprises can use the circular economy to gain a competitive edge and provides valuable insights into putting circular economy principles into action in developing economies. This research enriches discussions on business practices. This signifies a critical stride toward implementing circular economy principles effectively within the global sustainability framework.

**KEYWORDS:** Circular Economy (C.E.), Industry 4.0 Technologies, Small and Medium-sized Enterprises (S.M.E.s), Sierra Leone, Process Innovation, Technological Adoption, Competitive Advantage

## INTRODUCTION

In today's age, where natural resources are being used up quickly, and the environment is suffering, there is a growing need to shift from the linear economic model of take, use, and dispose to a more sustainable circular economy (C.E.) on a global scale (Di Vaio et al., 2022). C.E. focuses on preserving the value of products, materials, and resources for as long as possible by reducing waste and promoting reuse and recycling (Vogiantzi & Tserpes, 2023; Kirchherr et al., 2023). This change is significant for medium businesses in developing nations that face challenges such as limited resources, infrastructure limitations, and economic pressures (Negrete-Cardoso et al., 2022).

Sierra Leone stands at the forefront of this transition. With its burgeoning S.M.E. ecosystem of Small and Medium Enterprises (S.M.E.s), finding a balance between economic growth and environmental responsibility (Samenjo et al., 2023). This research examines how Sierra Leone's S.M.E.s are adopting C.E. principles with the help of Industry 4.0 technologies. While these advanced technologies have the potential to support sustainability efforts, their implementation in S.M.E. operations in developing countries like Sierra Leone has not been thoroughly studied.

By conducting twenty structured interviews with industry experts, this study aims to uncover the key factors that either promote or hinder the integration of C.E. principles in S.M.E. innovation processes. The research sheds light on the real-world challenges and opportunities faced by small and medium enterprises (SMEs) in Sierra Leone, filling a gap in the literature concerning sustainable development, innovation, and corporate environmentalism in developing nations. Additionally, it lays the groundwork for understanding how S.M.E.s can utilize Industry 4.0 to improve their impact and gain a competitive advantage in the marketplace.

By doing this, the study lays the foundation for an in-depth exploration of how principles, combined with the advancements of Industry 4.0, can be implemented within S.M.E.s in Sierra Leone. This offers insights into similar settings worldwide. The research outcomes aim to contribute to discussions around business strategies emphasizing the role of technology in fostering a transition towards a more resilient and circular global economy.

## **THEORETICAL AND LITERATURE REVIEW**

### **Circular Economy: A Paradigm Shift**

The Circular Economy (C.E.) concept is gaining recognition as a model that challenges the traditional linear approach of taking, making, and disposing of by promoting resource reduction, reuse, and recycling (Kirchherr et al., 2023; Vogiantzi & Tserpes, 2023; Arruda et al., 2021). This innovative model aims to reduce waste, increase the lifespan of materials or resources, promote sustainability, and cultivate a system of circular growth. At its core, C.E. emphasizes preserving the value of products, materials, and resources for as long as possible to support sustainability and economic efficiency.

The foundation of C.E. is rooted in the principle of 3Rs: reduce, reuse, and recycle (Arruda et al., 2021; Ramakrishna & Jose, 2022). Reduction focuses on minimizing resource consumption and waste production through product design and manufacturing processes (Arruda et al., 2021; Ramakrishna & Jose, 2022). Reuse involves prolonging the lifespan of products and materials by repurposing them to delay their disposal (Kirchherr et al., 2023). Recycling plays a role in converting waste into resources, completing the cycle of material use, and encouraging a sustainable resource management approach (Kirchherr et al., 2023).

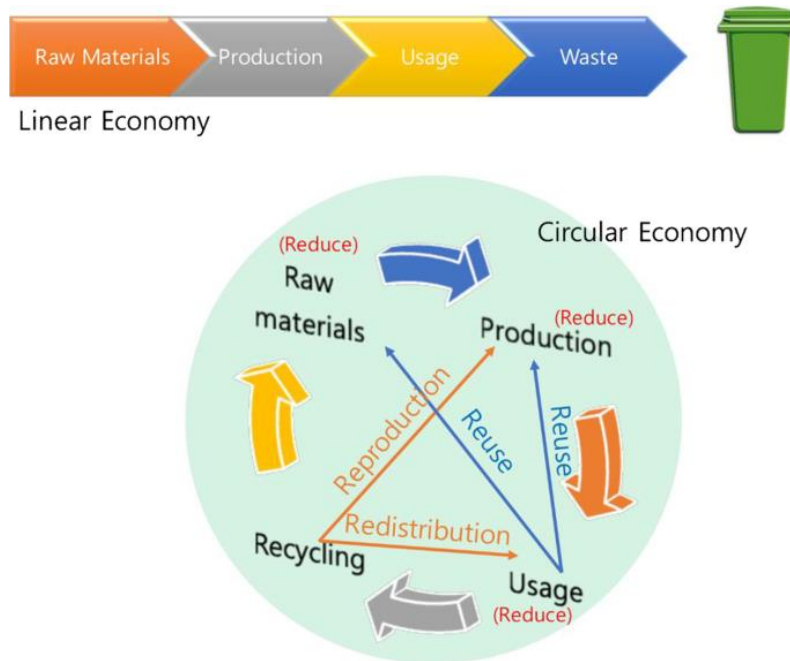


Diagram 1: Difference between Circular economy and Linear Economy, adapted from Chen et al. (2021)

### Challenges and Enablers of C.E.

Recent research, particularly highlighted by Neves and Marques (2022) and Samenjo et al. (2023), recognizes Industry 4.0 as an advancement in addressing the needs of modern operations through the utilization of cutting-edge technologies and machine learning for sustainability. This advancement emphasizes a transition towards improving production efficiency, elevating product quality, and streamlining maintenance procedures. Incorporating Industry 4.0 into process innovation notably enhances data exchange capabilities, promotes excellence, and substantially reduces waste, signifying a stride towards embracing C.E. principles (da Silva & Sehnem, 2022).

These principles, focused on conserving energy and optimizing manufacturing processes, stand to gain from Industry 4.0's ability to offer solutions (Ramakrishna & Jose, 2022). This encompasses methods for material identification, classification, repair processes, and waste monitoring systems that collectively support informed strategic decision-making.

Despite the synergy between Industry 4.0 and C.E., their integration into process innovation encounters obstacles for local small to medium enterprises (S.M.E.s) (Hennemann Hilario da Silva & Sehnem, 2022; Arruda et al., 2021). A primary challenge revolves around discrepancies and inconsistencies in data quality that necessitate the implementation of remedies. One major hurdle is the obsolescence of materials driven by existing constraints that hinder efficient reuse or



recycling efforts (da Silva & Sehnem, 2022). This issue is particularly evident and widespread in the Global South, where a gap exists in producing quality goods.

Moreover, concerns about transparency arising from data on the compositions of products make it challenging to improve processes by obscuring where raw materials are sourced (da Silva & Sehnem, 2022). The intricate nature of supply chains, often involving middlemen, further complicates these issues (Neves & Marques, 2022). Additionally, adopting systems on a scale is hindered by a prevalent reliance on linear technologies and a lack of technological literacy and skills to effectively utilize advanced technologies (Neves & Marques, 2022; da Silva & Sehnem, 2022).

Nevertheless, Industry 4.0 provides an opportunity to address these obstacles, as highlighted by da Silva & Sehnem (2022), Behl et al. (2023), and Rajput & Singh (2019), focusing on factors such as location, condition, and availability of knowledge. Leveraging these insights through feedback mechanisms, IoT, and cloud computing technologies can enhance tracking assets, evaluate storage capacity, and conduct maintenance tasks to improve resilience and resource efficiency (Lu et al., 2022). Exploring the capabilities of Industry 4.0 demonstrates its role in promoting the adoption of Circular Economy practices by optimizing energy consumption, managing waste effectively, improving process reliability resource usage, and enhancing resilience through self-optimization (Behl et al., 2023).

However, some challenges need to be addressed. These include system connectivity concerns about data security, substantial financial investments required for implementation purposes, infrastructural limitations, and compatibility issues (Rajput & Singh, 2019; Behl et al., 2023; da Silva & Sehnem, 2022).

This research focuses on understanding the factors that support or hinder small and medium enterprises in the Sierra Leone innovation ecosystem when adopting Industry 4.0 technologies and implementing circular economy practices during process innovation in product development.

### **The Climate Change Imperative of Circular Economy in Sierra Leone's S.M.E. Ecosystem**

The urgency of adopting Circular Economy practices in Sierra Leone's Medium Enterprises (S.M.E.s) is not just a mere strategic option. This necessity is highlighted by factors such as the impact of climate change, rising production and consumption expenses, depletion of resources, and challenges in accessibility. These issues significantly influence the country's socio-economic situation and environmental balance. For S.M.E.s, which play a role in Sierra Leone's economy, integrating Circular Economy principles is essential for developing resilience to external pressures and aligning with the national environmental preservation and economic expansion goals.

## Climate Change Impact

Sierra Leone, a country located on the coast of West Africa, vividly demonstrates the consequences of climate change. Despite contributing a fraction of global carbon dioxide emissions since 1950, Sierra Leone has found itself among the top 10 percent of nations severely affected by the negative impacts of climate change (Jackson, 2023). This disparity underscores a narrative of injustice, where the repercussions of climate change disproportionately impact regions that have made minimal contributions to global emissions (Parks & Roberts, 2006).

Nestled between Guinea and Liberia, with the Atlantic Ocean marking its boundary, Sierra Leone's diverse landscape spans coastal plains, interior lowlands, plateaus, hills, and mountains within 72,325 square kilometers. Despite this tapestry, there are looming challenges posed by climate change, such as more frequent extreme weather events, rising sea levels, and significant land degradation cast a shadow over the nation. These environmental shifts threaten the country's resources and exacerbate issues related to food security, water availability, and livelihoods for rural communities. Notably, 80-90 percent of Sierra Leone's population of 8.6 million reside in rural areas and heavily depend on natural resources for their sustenance (Wadsworth et al., 2019).

The informal economy, which plays a role in the economy and is the source of employment, faces severe threats due to climate-related shifts in weather patterns. Droughts, floods, and rising sea levels risk life and economic stability.

For S.M.E.s operating in this fragile environment, climate change has far-reaching consequences beyond immediate environmental effects. It affects productivity, supply chain reliability, and operational costs. Transitioning to a Circular Economy (C.E.) model is seen as both a strategic adaptation and a necessary step for surviving an existential threat. The core principles of C.E. are reducing resource consumption, extending product lifespan through reuse, and converting waste into resources. Offer solutions to combat the challenges posed by climate change. By embracing C.E. models, S.M.E.s in Sierra Leone can reduce risks by using resources, decreasing reliance on unreliable supply chains, and enhancing their ability to adapt to environmental shifts.

## Resource Depletion and Cost of Production and Consumption

Sierra Leone, mirroring the challenges faced by many developing nations, is struggling with the issue of dwindling resources and limited access to essential materials (Steer, 2014). The fierce global resource competition worsens this situation, leading to supply chain vulnerabilities and increased S.M.E.s' expenses. The Circular Economy (C.E.) principles have emerged as a strategy to address this challenge. Adopting C.E. S.M.E.s in Sierra Leone can reduce their reliance on resources by improving material efficiency, promoting recycling initiatives, and shifting towards

sustainability. This shift is critical for resource conservation and essential for enhancing the long-term resilience and sustainability of businesses in the area.

The current linear economic model, which follows a 'take make dispose' approach, has resulted in rising production and consumption costs. This increase is primarily driven by soaring raw material prices and the financial challenges associated with waste management. These factors present obstacles to the competitiveness and profitability of S.M.E.s operating on tight profit margins.

The move towards implementing Circular Economy (C.E.) principles presents a way forward focusing on reducing waste, improving resource efficiency, and finding value in its by-products. These steps could help S.M.E.s cut operational costs significantly, opening up opportunities to generate additional income and foster innovation in their products and services (Rajput & Singh, 2019).

Moreover, transitioning to a C.E. model addresses economic issues. The current waste management practices in Sierra Leone are severely lacking, leading to pollution and resulting health crises. A study conducted by Sood (2004) for the Sierra Leonean government revealed that Freetown municipality generates more than 745 tons of garbage per day (averaging 0.45 kg per person per day), with organic waste from areas and vegetable markets making up over 84 percent of the total (Komba, 2021). It's worth noting that debris from construction, demolition activities, and yard waste were not factored into this estimate due to their variability.

Adopting C.E. methodologies by S.M.E.s can transform waste management practices by promoting recycling efforts and initiatives focused on turning waste into resources. Additionally, the growing emphasis on sustainability standards in markets underscores the importance of S.M.E.s aligning themselves with C.E. principles.

Aligning in this manner opens up opportunities to reach markets and diverse customer bases, placing Sierra Leonean enterprises at the forefront of sustainability movements and benchmarks.

### **Process Innovation in Product Development: Advancing Circular Economy through Industry 4.0**

In the Circular Economy (C.E.) transition discourse, embracing process innovation plays a role in promoting sustainable business practices. Process innovation refers to introducing novel methods in product creation or service delivery (Simonetti et al., 1995; Goni & Van Looy, 2022; Fritsch et al., 2001). It encompasses enhancements to existing production processes and integration of new processes to overcome the lack of sustainability within the production value chain. This concept is pivotal for improving efficiency, quality, and responsiveness in product design,

manufacturing, and service operations. By incorporating process innovation, the core tenets of C.E.—reduce, reuse, recycle—can be fully embraced within product development (Simonetti et al., 1995; Goni & Van Looy, 2022). This transformation is essential for sustainability and the economic well-being of S.M.E.s in developing nations such as Sierra Leone (Fritsch et al., 2001).

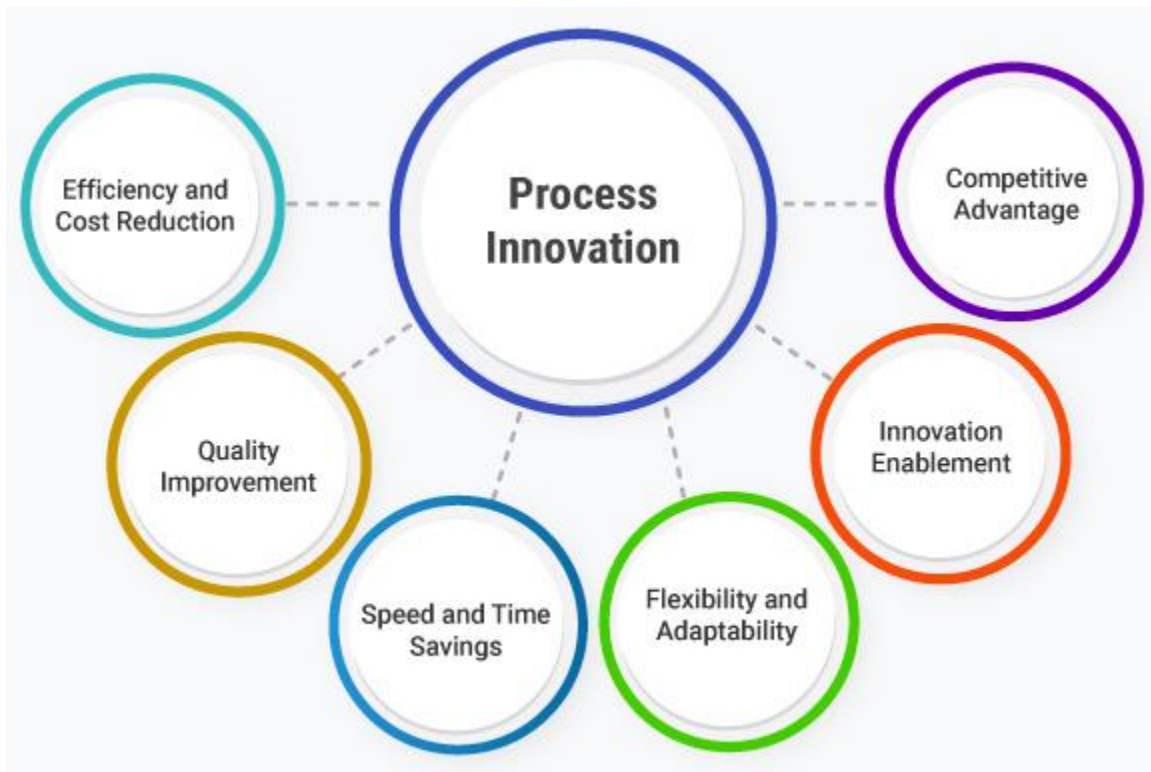


Diagram 2: A diagram illustrating Process Innovation (Source: Roy, 2024).

Traditional approaches to product development typically follow a trajectory that culminates in product disposal. In contrast, C.E. Advocates for a model where products have a lifecycle and waste is repurposed into valuable resources. This fresh perspective requires a rethink of how products are designed, manufactured, and managed at the end of their lifespan. By integrating C.E. Principles into the heart of process innovation, S.M.E.s can significantly reduce their footprint while tapping into cost savings and value-generation opportunities.

The rise of Industry 4.0 technologies—from the Internet of Things (IoT) to data analytics—presents prospects for driving this transition forward. These technologies enable the utilization of materials to enhance tracking capabilities across the product lifecycle and streamline waste segregation and recycling processes. For example, IoT devices can monitor product usage patterns and end-of-life stages to ensure that materials are recycled effectively or reintegrated into the production cycle.

Similarly, analyzing data can help us spot trends in how products wear out, which can guide us in creating lasting designs or pinpointing materials that can be reused.

Although incorporating Industry 4.0 into process innovation is vital for achieving C.E., it comes with challenges. Small and medium-sized enterprises in Sierra Leone might encounter limitations in infrastructure, skill shortages, and initial expenses when setting up. Nevertheless, these obstacles can be overcome by investing in technology and training supported by policies to encourage the shift towards C.E. Furthermore, this integration presents opportunities for S.M.E.s to cut costs related to sourcing materials and waste management while meeting the increasing consumer demand for eco products.

## **RESEARCH METHODOLOGY**

This study uses an ethnographic approach to explore how S.M.E.s in Sierra Leone embrace circular economy practices, focusing on the impact of Industry 4.0 technologies. The researchers carefully selected a group of twenty entrepreneurs and industry experts involved in promoting CE-oriented innovations within the entrepreneurial ecosystem. They conducted interviews and focus group discussions through Google Meet to gather insights on the challenges, experiences, and opportunities of adopting Circular Economy practices. Each session lasted between 40 to 60 minutes. Aimed at understanding how C.E. principles interact with Industry 4.0 technologies in S.M.E.s.

To ensure the integrity and inclusiveness of the research, a non-probability snowball sampling technique was used to involve stakeholders from Sierra Leone's S.M.E. sector who are committed to sustainable practices. Ethical considerations were prioritized, with participants receiving information about the study's goals, providing consent forms, and signing confidentiality agreements for data protection.

A thorough analysis was conducted by categorizing and examining the gathered data to identify recurring themes that align with the research findings and existing literature (Canesqui, 2010), and excerpts quotes were used in the analysis to present the individual perceptions of participants (Miller & Salkind, 2002; Sandelowski, 1994).

This careful approach highlights the study's dedication to presenting results that provide a view of the factors influencing adopting C.E. practices in small businesses in Sierra Leone. This contributes significantly to discussions on sustainable business practices and implementing Circular Economy principles in developing economies.

| Participant ID | Specific Occupation/Position                  | Years of Experience | SME Service/Product |
|----------------|---|---------------------|---------------------|
| AC1            | Circular Economy Researcher                   | 6                   | ACADEMICS           |
| AC2            | Policy Maker                                  | 14                  |                     |
| AC3            | Secondary Teacher, Researcher, and Consultant | 18                  |                     |
| AU1            | Parliamentarian                               | 10                  | AUTHORITIES         |
| AU2            | Councillor                                    | 5                   |                     |
| AU3            | Founder of a Civil Society                    | 13                  |                     |
| AU4            | Paramount Chief                               | 40                  |                     |
| CM1            | Petty Trader                                  | 25                  | COMMUNITY MEMBERS   |
| CM2            | Security Guard                                | 20                  |                     |
| CM3            | Whole Trader                                  | 30                  |                     |
| CM4            | Farmer  | 24                  |                     |
| CM5            | Gender Activist                               | 10                  |                     |
| CM6            | House-Wife                                    | 28                  |                     |
| CM7            | Dustman                                       | 9                   |                     |
| EN1            | Founder of an Energy and Agric. S.M.E         | 6                   | ENTREPRENEURS       |
| EN2            | Founder of a Menstrual Health and Gender SME  | 4                   |                     |
| EN3            | Head of Product Design at a Fashion SME       | 11                  |                     |
| EN4            | Head of Communication at Recycling SME        | 10                  |                     |
| EN5            | Head of Community Engagement at a biogas SME  | 12                  |                     |
| EN6            | Strategist at manufacturing SME               | 15                  |                     |

**Table 1: Participant data**

## RESEARCH FINDINGS AND ANALYSIS

In our study on how S.M.E.s in Sierra Leone embrace Circular Economy (C.E.) practices, we discovered a dynamic environment where creativity meets sustainability amid various obstacles. By engaging with S.M.E. leaders and innovators through organized interviews, we gained perspectives on their efforts to incorporate C.E. principles—reduce, reuse, and recycle—into their business practice.

## **Circular Economy Practices in Processes Innovation in Sierra Leone S.M.E.s**

The dedication to minimizing waste and maximizing resource efficiency was apparent in the strategies adopted by the S.M.E.s involved. One entrepreneur mentioned a method for conserving water:

"We make sure to capture every raindrop. It's not about saving water; it's about reimagining how we utilize each resource. This approach has cut down our utility expenses and reduced our reliance on city water sources (personal communication, 4 April 2023)," underscoring the environmental and economic advantages.

Collaborating with wholesalers has played a role in tackling the issue of product surplus. A respondent explained, "We've set up a network where surplus products are swiftly redirected to areas with a demand. It's a win-win situation: minimizing waste for us while meeting requirements elsewhere (personal communication, 4 April 2023)."

Regarding packaging, another participant stressed, "Customer demands for sustainability prompted our transition to materials. It's a journey. Each progression we make significantly impacts our environmental footprint (personal communication, 7 April 2023)."

Discussions on recycling shed light on methods of converting waste into resources. "Our agricultural leftovers are put to use. We're transforming them into briquettes for heating and cooking (personal communication, 4 April 2023)".

"It's all about recognizing the value in things that others might overlook (personal communication, 7 May 2023)," said a Paramount Chief, a local policymaker and authority, emphasizing how they repurpose waste.

The importance of recycling was widely acknowledged. One participant mentioned, "Converting our waste into compost reduces our impact on landfills and gives us high-quality fertilizer for our operations. It's a win-win full circle situation (personal communication, 7 April 2023)."

Furthermore, integrating recycled materials into product offerings was a step towards sustainability. A fashion designer explained this transition: "Using recycled fabrics isn't about making clothes; it's about telling a consciousness story. Our program for taking back used items is quite popular. Enhances customer involvement in consumption (personal communication, 4 April 2023)."

These excerpts showcase how Sierra Leonean S.M.E.s embracing C.E. were influenced by Industry 4.0. The research highlights an evolving sector that, despite obstacles related to infrastructure and market conditions, is moving forward in integrating circular economy principles into its innovation processes.

### **Enablers and Barriers of Circular Economy Principles Implementation in Sierra Leone's S.M.E. Ecosystem**

The integration of Circular Economy (C.E.) principles, supported by advancements in Industry 4.0 technologies, marks a move towards friendly business and sustainable approaches within the Small and Medium-sized Enterprises (S.M.E.s) ecosystem in Sierra Leone. This research delves into the factors that enable or obstruct S.M.E.s by examining twenty organized interviews with industry experts.

#### **Enablers to Adopting Circular Economy (C.E.)**

A significant factor that supports the implementation of the economy (C.E.) is the alignment between C.E. Principles and the advanced technologies of Industry 4.0. Small and medium enterprises (S.M.E.s) have noted that incorporating the Internet of Things (IoT) and data analytics into their processes has "revolutionized waste management processes, turning cost centers into revenue streams through innovative recycling practices (personal communication, 4 April 2023)." This highlights how technology plays a role in enhancing efficiency and sustainability.

Another important driver for adopting C.E. is the focus on improving energy and resource efficiency. An entrepreneur mentioned that by "combining power with waste-to-energy initiatives, they have reduced their environmental footprint and reduced operational costs significantly (personal communication, 4 April 2023)." This example demonstrates how embracing C.E. can lead to benefits and environmental conservation.

Furthermore, the integration of cutting-edge tracking systems and predictive maintenance technologies has been linked "to a decrease in downtime and an enhancement in service quality (personal communication, 7 April 2023)" for S.M.E.s, giving them a competitive advantage in the market. This enhancement in product standards and operational reliability showcases how Industry 4.0 technologies support circular economy principles.

#### **Barriers to Adopting Circular Economy (C.E.)**

One of the challenges in embracing the Circular Economy (C.E.) is the need to invest in technology and infrastructure adjustments to incorporate Industry 4.0 solutions. A small business



owner pointed out that "transitioning to the C.E. model requires investments in technology and training, which can be a financial challenge for many (personal communication, 7 April 2023)."

Issues related to data security and integrating new technologies with existing systems pose significant obstacles. A participant mentioned the difficulty of "balancing innovation with security concerns amidst data breaches, highlighting the risks involved in the transformation (personal communication, 4 April 2023)."

While technological advancements support the integration of C.E. Principles in Sierra Leone's small and medium enterprise (S.M.E.) ecosystem, financial constraints and infrastructural limitations hinder progress. S.M.E. leaders show interest in sustainable innovation, yet as one participant said, "they are cautious due to practical worries about investments, security, and integration complexities (personal communication, 9 May 2023)."

To promote C.E. Adoption, stakeholders should consider developing strategies like government subsidies or partnerships to ease the initial financial burden of doing business. Data security and interoperability protocols could help resolve integration challenges and facilitate industry 4.0 applications for S.M.E.s adopting C.E. Principles in the informal economy.

## **CONCLUSION**

This preliminary research has shed light on the relationship between Circular Economy (C.E.) principles and Industry 4.0 technologies in the realm of Medium-sized Enterprises (S.M.E.s) in Sierra Leone. By conducting in-depth interviews with professionals from industries, the study has connected ideas with practical applications, uncovering both the opportunities and challenges when implementing C.E. Strategies in the S.M.E. Sector. The results emphasize the role of Industry 4.0 technologies in facilitating the shift from linear models to sustainable circular approaches, improving waste management, energy efficiency and operational flexibility. Nevertheless, this transition faces challenges due to limitations, inadequate infrastructure and difficulties in integrating technology, underscoring the importance of creating an environment for C.E. Adoption.

The study's insights highlight the importance of targeted measures like policy adjustments, financial support mechanisms and capacity-building programs to address the identified hurdles effectively. It suggests a strategy involving bodies, industry players and international allies to establish an environment conducive to innovation and sustainability. By harnessing the capabilities of Industry 4.0 technologies, significant progress can be made in advancing C.E. Practices that contribute to economic resilience, environmental protection and societal welfare.

This study does not add depth to the discussion on development but also lays the groundwork for further academic research on adopting clean energy in developing countries. This sets the stage for a friendly, adaptable and interconnected global economy.

To sum up, combining C.E principles with Industry 4.0 technologies offers a path towards sustainability for small and medium-sized enterprises in Sierra Leone. By addressing the obstacles and embracing the opportunities outlined in this research these enterprises can contribute to advancing sustainability efforts. The intersection of energy and Industry 4.0 signals the beginning of an era characterized by prosperity, environmental consciousness and social equality in emerging markets, paving the way for a sustainable future driven by innovation and cooperation.

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**RISK PERCEPTION AND MANAGEMENT  
STRATEGIES: CASE-STUDY OF THAI COFFEE  
PRODUCTION**

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**Abstract**

Thailand's coffee sector faces numerous risks, impacting coffee farmers' livelihoods. This study explores risk perception and management strategies through in-depth interviews with key informants, which include producers and social enterprise leaders. Drawing on Harwood's (1999) risk categorization (production, environmental, financial, market, personal), risks highlighted by interview participants fell under all risk categories except for financial, where the analysis identifies climate change, price volatility, and limited land ownership as major concerns. While risk perceptions vary based on individual experiences and the stakeholders they represent, a key finding is the intersectionality of risks, where some risks pose the catalyst for others, such as production risks influenced by fluctuating climate impact the likelihood and severity of personal risks, such as labor shortages. Perspectives also varied based on the informant's roles and engagement with farmers, where producers demonstrated more emphasis on the production environment, and those involved in social enterprises focused more on human resource capacity and market access. Shared themes arose from interviews and brought attention to the need for extension and training programs, alternative income sources, and market diversification initiatives to reduce dependence on volatile coffee prices. These measures aim to enhance resilience and secure long-term sustainability for Thailand's coffee sector.

**Keywords:** Thai agriculture, agricultural risk perception, coffee, farming livelihoods, agricultural extension, rural agriculture

**Introduction**

The coffee sector in Thailand represents a vital product within the country's agricultural landscape, with implications beyond export potential as demand in consumption and avenues for coffee tourism continue to expand. Although coffee production for export in Thailand is relatively novel, existing production processes and Thailand's favorable breeding environment offer a high potential for growing quality coffee, thus directing promising returns to Thai coffee farmers

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(Noppakoonwong et al., 2015). As a growing industry, it becomes more pertinent to understand the risks involved in coffee production and how these farmers' perceptions of risks influence risk behavior and strategies. How farmers decide to cope with or mitigate risks has implications for the preservation and prosperity of those whose livelihoods depend on coffee.

Although opportunities exist in the coffee sector, several risks are relevant to Thai coffee farmers and extend to those in surrounding regions. Environmental risks, such as climate variability, pest infestations, and soil degradation, can significantly impact crop yields and quality (Onphanhdala, 2022; Sedtha et al., 2023). Economic risks, including fluctuations in global coffee prices, market volatility, and access to credit, can affect farmers' income and profitability (Chaovanapoonphol et al., 2023; Noppakoonwong et al., 2015). Additionally, sociocultural factors, such as traditional practices, knowledge transmission, and access to extension services, also play a role in shaping farmers' risk perceptions and their ability to adapt to changing circumstances.

Understanding Thai coffee farmers' risk perceptions is crucial for developing effective policies, interventions, and support systems that can enhance their resilience and sustainable livelihoods. By gaining insights into their perspectives, policymakers and agricultural extension services can design targeted strategies to address farmers' specific concerns, promote sustainable farming practices, and facilitate risk management strategies. Furthermore, this understanding can inform research and development efforts aimed at developing climate-resilient coffee varieties, improving cultivation techniques, and enhancing value chains to support Thai coffee farmers.

### **Conceptual Framework**

The framework applied for this study combines qualitative and social science approaches to explore farmers' risk perceptions. The framework design leverages Harwood's categorization of risk, namely, production, environmental, financial, personal, and market risks, to structure that individuals within societies perceive risks through their cultural lens, considering the specific values and priorities that are important to them.

Some theories have considered socio-psychological factors in the context of analyzing an individual's decisions and behavior-making processes. The theory of planned behavior (TPB), developed by Icek Ajzen in 1991, purports that behavior stems from an individual's intentions, which in turn are characterized by three central psychological constructs: his/her attitude toward a specific behavior, his/her perception of social norms and others' attitudes toward said behavior, and his/her perceived control of the behavior. These constructs originate from the individual's underlying beliefs. Further literature on risk perception centers on the influence of individual characteristics, trust in communicating institutions, and risk attributes. A person's characteristics such as gender, age, income, education, and other individual traits determine the lens by which they assess risks and risk attributes. An ethnographic approach to risk perception offers a deeper and more holistic understanding of traditional knowledge, beliefs, practices, and specific socio-economic factors that influence risk perception, and ultimately risk behavior (Owusu-Daaku & Onzere, 2019; Chunhabunyatip et al., 2018; Verschuuren & Furuta, 2006).

Building off of these socio-psychological components, Osiemo et al. (2021) integrated

framework considers the attributes of both the individual and the specific risk that ultimately influence the perceptions associated with risk. This theoretical approach applied in this study draws from this holistic approach, allowing for a more nuanced analysis of farmers' risk perceptions, considering both the specific types of risks they face and the social and individual factors that shape their perspectives.

### **Methodology**

The primary data collection method involved semi-structured interviews with coffee farmers, which aimed to capture their perceptions of the most pressing risks and risk factors affecting coffee farmers' livelihoods. Interview participants are key informants who work closely with coffee production in Chiang Mai and Chiang Rai, the most prominent coffee production areas for arabica coffee in Thailand. Each key informant represents a different role in the engagement of the domestic coffee industry, which involves a producer, company founder of a for-profit social enterprise, and a community enterprise. Secondary data collection involved desk research of recurring themes and trends among various case studies identifying contemporary risks pertinent to farmers as well as the processes involved in determining risk management strategies.

The interviews were conducted either in person or via video conference. The data analysis involved a thematic analysis approach, where the transcripts were coded based on the themes identified during the interviews. Themes were categorized under the five risk domains as outlined by Harwood, namely production, market, institutional, personal, and financial.

Thematic analysis is applied to organize the information collected from key informant interviews, as categorized using the five risk domains. This approach aims to highlight emerging themes within the interviews, as well as capture any variance of perspective among participants.

### ***Key Informants***

#### **1. Phongsila Commak, Sansaicisco | Community Enterprise**

Khun Phongsila is involved with Slow Food Community for Change and is the co-founder of Sansaicisco, an organization dedicated to supporting sustainable supply chain development in the agricultural sector, including coffee. Both organizations are based in Chiang Mai.

#### **2. Khun Max | The KCEG (Khun Chan Kian Community Enterprise Group)**

Khun Max works as a coffee producer operating under the community enterprise brand of the KCEG, an abbreviation for the Khun Chan Kian Community Enterprise Group. Members of the KCEG primarily reside in the Khun Chang Kian village located on a mountaintop in Chiang Mai province, 1,400 meters above sea level, and are comprised of majority Hmong farmers.

#### **3. Interview #3: Lee Ayu Chuepa | Akha Ama Coffee**



Khun Lee is the founder of the social enterprise Akha Ama (Akha, being the name of the people group, and ‘Ama’ meaning mother in the Akha language). The farms that sell coffee under the Akha Ama brand are generally located in Chiang Rai, with its flagship cafe being situated in Muang Chiang Mai. Akha Ama produces artisanal and specialty coffee among the Akha people group as a means to improve the livelihoods of farmers and consolidate autonomy over the quality and price of their coffee.

## **Findings**

### ***Thematic Categorization of Risks***

#### **Production Risks**

The challenges that coffee farmers in Thailand face are often external, such as exposure to pests, disease, as well as the impacts of climate change. Arabica coffee has increasingly become more popular among smallholder farmers due to higher international demand and prices compared to Robusta. However, Arabica plants are more susceptible to high temperatures and pests, resulting in higher production costs and additional precautions (Onphanhdala, 2022).

Multiple studies have concluded that Thailand is increasingly vulnerable to extreme climatic events like droughts, floods, and cyclones, affecting water resources, agricultural production, and overall human safety. In the coffee sector, erratic rainfall, high temperatures, and lower agricultural yields are the most pressing climate-related challenges farmers must cope with to maintain their livelihoods (Sedtha, 2023; Babel et al., 2011). The northeast region, containing most of Thailand's domestic farmland reliant on seasonal rainfall, is particularly prone to drought and flood conditions that exacerbate pest outbreaks and crop diseases. Mahasarakham province has issued a plan specifically addressing climate vulnerability given the high risks of food insecurity, supply shortages, and potential economic crises in areas of high impact and low adaptive capacity (Sedtha, 2023).

In their interviews, both Khun Phongsila and Khun Max highlighted the significance of shifting rainfall patterns which have detrimental effects on coffee harvest periods, pollination, and crop deterioration. Beyond factors induced by climate, the cultivation landscape is pivotal in affecting the production processes farmers can engage in. Khun Phongsila shared that in the case of the Baan Wat Chan region in the Kanlayanivatana District of Chiang Mai, producers are limited to naturally processing coffee and cannot participate in wash processing due to the surrounding water reserves, which are contaminated by the acidity of the residues from the pine trees surrounding the area. Natural processing, though yielding higher farmgate prices, is a much more time-consuming, lengthy, and labor-intensive process compared to wash processing.

Khun Lee of Akha Ama also points to the threat of the expansion of monoculture practices that disrupt the farming ecosystems and reduce the indigenous plants shared in coffee cultivation to maintain soil biodiversity. This sentiment is rooted in the government-sponsored expansion of commercial agriculture, reaching into the mountainous northern provinces in Thailand, to meet

the growing global demand for livestock feed production through the production of crops like maize (Bruun et al., 2017).

In this vein, Khun Lee refers to a critical issue for coffee farmers of the Akha community, which is their lack of control over production, market knowledge, and ultimately, the price they receive for their beans. This issue serves as the primary basis for starting the Akha Ama coffee brand as a social enterprise. The company's goal is to foster cohesion within the community by encouraging multi-generational participation in the contribution of both new and traditional knowledge to develop innovative revenue streams that support and enhance the livelihoods of those in the community.

### **Market Risks**

Price volatility poses a problem in the agricultural sector, not sparing the coffee industry in Thailand, resulting in uncertainty concerning both consumers and producers and thus impacting the incomes of actors involved in the coffee supply chain. In Thailand, domestic coffee production is engulfed by demand for coffee products, where consumption of coffee exceeds domestic production by 5x, despite government intervention to stimulate coffee production. Challenges to coffee production include reduced harvest areas. To put this discrepancy in perspective, the demand for raw coffee beans amounted to 91,036 tons, whereas domestic production of coffee beans came at a fraction of overall demand at 18,054 tons in the same year, a decrease from average annual production which averaged 26, 162 tons in the period of 2016 to 2020 (Chaovanapoonphol et al., 2023).

As a result of this supply-demand gap, Thailand is a net importer of raw coffee beans, importing 61,982 tons, valued at 5423.66 million baht, from other Southeast Asian countries like Vietnam, Laos, and Indonesia (Chaovanapoonphol et al., 2023). When examining the farmgate pricing of raw coffee beans in Thailand from 2003 to 2021, it is evident that these prices experienced continuous fluctuations, exhibiting an overall upward trend and reaching a peak in 2015 at 72.50 baht per kilogram. The volatility in the farmgate pricing of raw coffee beans is expected to be influenced by a combination of domestic and international factors. Additionally, the implementation of AFTA (ASEAN Free Trade Agreement) policies, including the elimination of import tariffs on instant coffee products, exacerbates challenges for coffee producers facing comparatively higher production costs than their ASEAN counterparts (Kasikorn Research, 2009; Meesaeng, 2022). As a result, farmers are compelled to pivot towards specialty coffee production to enhance competitiveness. In this regard, factors such as the imbalance between the supply and demand for coffee within Thailand and government support policies will play a crucial role.

The price volatility of coffee creates uncertainty for farmers impacting their confidence in coffee as a reliable income source, as reflected in the interviews of the key informants. Khun Phongsila points to the government-imposed tariffs and customs costs for imported coffee, done to protect domestic coffee consumption, but inadvertently contributing to the low export demand for Thai coffee. In the case of the KCEG, Khun Max points to the volatility in coffee prices causing farmers to rely on other crops to compensate for any losses from fluctuating and inconsistent prices. The concept of diversifying crop choices for farmers reinforces the resiliency found to be

necessary due to the unreliability of coffee to provide a viable independent source of income. Where Khun Max expresses the planting of additional crops as a necessity to ensure stable income, Khun Lee points to the opportunities available through crop diversification, both to enhance natural ecosystems and fortify farmers' resilience by accessing different markets apart from coffee.

### **Personal Risks**

Labor availability poses a pressing risk for coffee farmers in Thailand who rely on employing additional workers during the harvest season. Harvesting coffee cherries is an exceptionally labor-intensive process, and the period during which harvest can take place occurs only once a year and coincides with the harvest times for other major crops, such as rice, sugarcane, and tobacco, which are cultivated in the same regions (Kwanmuang & Lertjunthuk, 2021). This results in fierce competition for available labor, and many coffee farmers struggle to secure sufficient workers to meet their harvest needs.

In the case of Chumphon province, where a substantial proportion of Thailand's robusta beans are produced, coffee farmers must rely on immigrant labor from the north and northeast regions to meet harvesting demand. Because of coffee's brief harvesting period, securing sufficient labor during this time is paramount to maintaining the quality of coffee and ensuring farmers' income. Because coffee farms in both the northern and southern regions harvest contemporaneously, local labor is often inaccessible, and competition for hiring outside labor poses challenges for coffee farmers. Securing seasonal labor is not only essential but has become increasingly scarce (Kwanmuang et al., 2018). Trends from the past forty years have demonstrated a decline in labor availability, shifting away from the agricultural sector in favor of non-agricultural activities such as those in the service or industrial sectors. Studies have attributed this decline in labor availability to factors such as the attainment of higher education levels and the insecure, low-income nature of agricultural labor (Ministry of Agriculture and Cooperatives, 2017).

Labor shortage poses a risk to Thailand's agricultural sector, especially as product output has direct implications for farmers' livelihoods.

The KII interviews echo this concern over labor availability, as well as shed light on the barriers related to human resource capacity and the protection of local resources. This is evident in Khun Max's concerns regarding the trajectory of the coffee processing capacity with the KCEG. Farmers are hesitant to develop methods to increase their coffee's value, which stems from a lack of technical knowledge in coffee processing, where know-how is limited to wash process, and therefore experience limited capacity to explore the avenue of specialty coffee.

Khun Max further describes the divide between resources to enhance production knowledge despite proximity to coffee research centers (operated by Mae Fah Luang University, Chiang Mai), as this case reveals there is not a strong linkage between the farmers and researchers for disseminating knowledge.

Additionally, labor shortage was expressed as a challenge by both Khun Max and Khun Lee, as coffee farmers have been able to access more rai for coffee farming, thus requiring an increased need to recruit harvesters, usually from other villages. Khun Lee further noted the

concern of youth abandoning coffee farming for other endeavors. He fears that the price instability of coffee might deter youth from continuing their family's farming operations. This concern fuels Khun Lee's initiatives to foster knowledge and innovation, particularly through specialty coffee, to encourage youth to perceive coffee as a

lucrative endeavor. Khun Phongsila attests to the success of these initiatives presented through the avenue of specialty coffee and even suggests that youth retention negates the concern for the labor shortage. Furthermore, Khun Lee underscores his apprehension of larger companies expanding onto Akha land, which threatens disruption of Akha cultural heritage, traditions, sacred rituals, and potential loss of medicinal knowledge from reduced Indigenous plants due to monoculture agriculture expansion.

### **Institutional Risk**

Interviews also reflect a shared concern over farmers' autonomy over land usage and expansion, as most rural agricultural land in Northern Thailand is nationally owned and governed. Khun Phongsila points to the nature of land titles offered under the Royal Project Foundation, which facilitates coffee farming, as being limited to farmers who do not have full autonomy over how the land is used, as they can neither buy nor sell the land (personal communication, 5 April 2023). While the RPF has intended to work toward the improvement of quality of life for hill tribes as forest restoration in the area, the governmental role of the RPF has posed a challenge to advocates for these communities to possess communal land rights (Charoenratana et al., 2021; Sturgeon, 2012; Wittayapak & Baird, 2018). This friction between hill tribe communities and the RPF is exacerbated by the narrative of hill tribes using primitive and destructive agricultural practices, harmful to the environment, where the RPF acts as a regulator, restricting hill tribes from their culturally nomadic lifestyle, and therefore limiting their use of forested land. In the context of Khun Chang Khian village, Khun Max attests to the struggle for farmers to expand their coffee enterprise with the limited land available to farmers, as the village is nestled in a national park area. In the case of the Akha farmers, Khun Lee expresses the need for advocacy and measures to protect indigenous plants and practices since the community has little control over land use. The encroachment of corporations dominating the agrifood supply chain has also resulted in a growing dependence on corporate food systems, which have the potential to replace traditional practices. The RPF particularly targets the production of organic products and supports hill tribes financially through the purchase of organic produce. However, this model has yielded low economic returns for farmers, as many remain poor and face further barriers through discrimination as ethnic minorities. To exacerbate matters, the intensive manual labor required for organic farming has facilitated the exploitation from hill tribes of other migrants as farm workers with low wages (Latt & Roth, 2015).

### **Discussion**

Thai coffee farmers contend with various environmental, market, and production risks that threaten their yields, incomes, and overall sustainability. Throughout the interviews, it was clear which risks were the most pressing to coffee producers from among the five risk domains, namely, environmental, market, personal, and institutional risks. From discussion with the key informants,

several key themes emerged. First is the need for effective human resource capacity development. The gap in knowledge-building resources is prominent enough to where Khun Lee integrates extension training as a core program element in Akha Ama. Educational programs and extension services can play a vital role in increasing awareness of climate change impacts and disseminating knowledge on sustainable farming practices. Second is the importance of promoting farmers' access to alternative crop choices and marketing channels to cope with the context of limited farming land, which is also nationally owned and regulated.

This latter point also raises the subjectivity of risk perception. While all informants acknowledged environmental risks as significant, their perspectives on risk mitigation differed. Khun Max focused on diversifying crops as a coping strategy to mitigate income loss from price volatility, while Khun Lee saw diversification as an opportunity for new markets. This highlights how individual experiences and goals influence how farmers approach different risks.

The interviews also shed light on the interconnectedness of the risk domains and how certain risks often intersect and exacerbate each other. For example, inconsistent rainfall not only affects crop health but also impacts crop yield, which is a production risk and causes fluctuating harvest periods and labor requirements, which can be categorized as personal risks. Similarly, institutional risks, such as limited land ownership, will influence all other risk domains in the sense that the RPF model limits the resources and autonomy of farmers to expand their production, implement certain technologies or processes for sustainable farming practices, and facilitate dependence on existing marketing channels.

## **Conclusion**

The shared insights gathered from the key informant interviews emphasize the need for a nuanced approach when addressing the challenges faced by Thai coffee farmers. Interventions should consider the perceptions of the challenges encountered by coffee farmers, as well as understand the intersectionality of these various risks. Capturing this nuance is crucial for designing effective policies and support systems that support the livelihoods of Thailand's coffee farmers and, in turn, inform strategies to enhance resilience, improve risk management capabilities, and secure the sustainability of the country's coffee industry. The fact that all three key informants were engaged in social enterprise in the coffee industry of Northern Thailand may also point to the gaps in resources currently offered by government initiatives to support coffee growers, particularly those from ethnic minorities. Influences from free trade agreements that affect the domestic demand for locally grown coffee, the constraints of processing knowledge, and the threat to coffee productivity from climate impacts are a few of the pressing factors that urge the rise in social engagement with these groups of farmers. These social enterprises prove a promising avenue to mitigating these impacts and challenges and aim to be an effective model ensuring the sustainability and improvement of the livelihoods of Thailand's coffee farmers.

The interview design did not contain questions related to psychometrics or engage in depth with the psychological processes involved in interpreting risks. Although each key informant possesses a distinct cultural background from the other and engages with a separate group of stakeholders, little analysis of perception from the influence of age, gender, and income status was considered.

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# **Digital-Enabling Sustainable Livelihoods and Displacement: A Study of Myanmar Displaced People in Mae Sot, Thailand**

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## **Abstract**

From an extended ecological perspective, the digital environment as an extension of human environments is a significant driver of change and a potential tool for mitigation and adaptation strategies in constructing sustainable livelihoods. This perspective underscores the transformative potential of digitalization in today's digital era, where self-reliant digital initiatives of the Myanmar displaced population in Thailand can bridge gaps to access different domains and facilitate activities aligned with non-governmental resources despite legal barriers and limited national resources. This study explores how digital tools enhance sustainable livelihoods for Myanmar's displaced populations in Thailand and examines how digital resources integrate into livelihood strategies for self-reliance and socio-economic well-being using a modified Sustainable Livelihood Framework. Insights from policy analysis, key informants' experiences, and stakeholder perspectives reveal that displaced individuals leverage substantial human and social capital, showing adaptability and resilience, which can lead to sustainable livelihoods with digital engagement. However, significant challenges in financial stability, digital access, natural resources, and social inclusion require further support. Despite improvements in digital engagement and community support, ongoing economic and legal barriers prevent fully sustainable livelihoods. Moreover, current policies could improve lives but often exclude displaced individuals, focusing only on Thai citizens in digital development. Recommendations for policymakers include simplifying documentation processes, protecting the rights of the displaced population, improving housing conditions, and enhancing infrastructure for electricity, water, and transportation in Mae Sot. Moreover, supporting digital-enabling sustainable livelihood initiatives in policy reform is crucial. For humanitarian organizations, it is essential to implement comprehensive support programs, expand access to mental health services, provide capacity building and training, and engage in advocacy and collaboration. Further research should focus on the effectiveness of interventions, social and economic integration, mental health, and the role of digital tools in sustainable livelihoods. These efforts aim to create a supportive environment for displaced individuals, enabling them to thrive and contribute to their communities.

**Keywords:** Myanmar Forced Displacement, Sustainable Livelihood, Digital-enabling, Self-reliance

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## **Introduction**

Since the 1962 coup, Myanmar has faced economic, political, and human rights setbacks, earning its status as one of the least developed countries by the UN in 1987. Continuous political conflicts, especially in ethnic minority regions, have displaced many Myanmar citizens, many of whom sought refuge in neighboring Thailand. By December 2022, the UNHCR reported 662,139 displaced Myanmar individuals in Thailand, including 90,617 refugees and 4,836 urban asylum-seekers. Following the 2021 coup, an additional 22,200 sought temporary safety in Thailand, although the number could be as high as 400,000.

Most refugees live in nine temporary shelters along the Thai-Myanmar border. Thai law restricts their movement and employment, forcing reliance on humanitarian aid. Urban refugees and stateless people, considered illegal, face detention risks regardless of UNHCR registration. These legal barriers limit their access to essential services, driving many into informal sectors where they risk exploitation and abuse. UNHCR promotes durable solutions, such as voluntary repatriation, third-country resettlement, and host community integration, aiming for self-reliance through economic inclusion, education, healthcare, and safety. Despite these efforts, economic challenges force many into informal economies, risking their dignity and security. Digital livelihoods offer a potential bridge to self-reliance, providing opportunities for remote work, digital skills training, and online entrepreneurship. However, challenges include digital literacy, market access, and fair working conditions for women.

This research assesses digital assets, capabilities, and institutions supporting self-reliance among Myanmar-displaced individuals. It aims to suggest solutions and recommend policies based on stakeholder perspectives. Using Chamber & Conway's definition of sustainable livelihood, the study focuses on displaced communities in Thailand before the 2021 coup (Chambers & Conway, 1992), asking:

- 1. How do displaced populations adopt digital tools for sustainable livelihood construction?**
- 2. To what extent can digital livelihood activities contribute to the sustainable livelihood of Myanmar-displaced populations in Thailand?**

## **Methodology**

This section details the qualitative research framework used to address the study's research questions, incorporating in-depth interviews and policy/legal document reviews to provide a comprehensive analysis.

A qualitative approach is chosen to deeply understand the experiences of displaced populations and the impact of legislative effects. The study employs in-depth interviews with displaced individuals and a review of relevant policy documents to ground the analysis in current regulatory frameworks. Data collection and analysis involves selecting 8 Myanmar-displaced individuals in urban settings through purposive sampling, targeting those aged 15–59 with primary education or digital literacy, internet access, and mobile phones. Interviews are conducted in Burmese, recorded, translated, and transcribed, focusing on experiences with digital tools and livelihood strategies. Snowball sampling ensures a diverse and representative sample. A systematic review of relevant policy and legal documents uses thematic and discourse analysis to identify key insights and regulatory impacts. Following Braun & Clarke's six-step approach, thematic analysis was applied to the interview data, while policy analysis examined documents related to digital access and employment.

The research focuses on urban displaced populations in Mae Sot, involving urban refugees, asylum seekers, trafficked individuals, and forced labor migrants. Initial contact for recruitment was made through local organizations, followed by snowball sampling. Stakeholder organizations' interviews were conducted with six organizations in Mae Sot. They were selected based on their involvement in livelihood support, education, skill-building, and health/psychosocial support. The researcher made an initial contact through recommendations followed by in-person meetings. Interviewees had diverse profiles, including artists, engineers, students, NGO workers, and vocational trainees. By combining information from policy reviews and interviews, triangulation guaranteed the validity of the data and gave researchers a thorough grasp of the research issue. Validity was tested through a verification procedure combining data phases and policy review.

| <b>Code</b>   | <b>Date</b> | <b>Mode of Interview</b>                 | <b>Profile</b>   | <b>Mean of Recruitment</b>       |
|---------------|-------------|--|--|----------------------------------|
| Interviewee 1 | 18 May 2024 | In-person at the interviewee's residence | <ul style="list-style-type: none"> <li>• Artist</li> <li>• Working experience in Tech logistics</li> </ul> | Through organization             |
| Interviewee 2 | 18 May 2024 | In-person at the                         | <ul style="list-style-type: none"> <li>• Bachelor's in civil engineering,</li> </ul>                       | Snowballing through interviewees |

|               |             |                                       |  |                                  |
|---------------|-------------|---------------------------------------|--|----------------------------------|
|               |             | interviewee's residence               | <ul style="list-style-type: none"> <li>• Working experience- 3-4 years</li> </ul>  |                                  |
| Interviewee 3 | 18 May 2024 | In-person at a private place          | <ul style="list-style-type: none"> <li>• University Student,</li> <li>• Volunteering experience- NGOs, CBOs</li> </ul>                                     | Snowballing through interviewees |
| Interviewee 4 | 19 May 2024 | In-person at an organization's office | <ul style="list-style-type: none"> <li>• Training officer at NGOs</li> <li>• Trauma healing counselor</li> <li>• Underground Crew in Revolution</li> </ul> | Snowballing through interviewees |
| Interviewee 5 | 19 May 2024 | In-person at an organization's office | <ul style="list-style-type: none"> <li>• Secondary Education</li> <li>• Vocational training (sewing)</li> </ul>  | Through organization             |
| Interviewee 6 | 19 May 2024 | In-person at an organization's office | <ul style="list-style-type: none"> <li>• Secondary Education</li> <li>• Vocational training (sewing)</li> </ul>  | Snowballing through interviewees |
| Interviewee 7 | 19 May 2024 | In-person at an organization's office | <ul style="list-style-type: none"> <li>• Higher education (informal migrant learning center)</li> <li>• Freelance digital nomad</li> </ul>                 | Snowballing through interviewees |

|               |             |   |   |                                  |
|---------------|-------------|---|---|----------------------------------|
| Interviewee 8 | 22 May 2024 | Phone call as per interviewee's transportation difficulties | <ul style="list-style-type: none"> <li>• Bachelors in civil engineering</li> <li>• Working experience at a solar site in Meikhtila, Myanmar</li> <li>• Displaced Family- SME entrepreneurs</li> </ul> | Snowballing through interviewees |
|---------------|-------------|---|---|----------------------------------|

Figure 1: Profile of Displaced Interviewees in Mae Sot

### Conceptual Framework

The Sustainable Livelihood Framework (SLF) is a vital tool for analyzing the livelihoods of displaced Myanmar populations in Thailand. This framework focuses on enhancing autonomy and governance within vulnerable contexts. Livelihood is inherently complex and influenced by many social, economic, and political dynamics (Scoones, 2015). Traditional studies have often concentrated on individual strategies for coping and adapting. However, broader structural contexts, such as state regimes, organizational influences, and global forces, have frequently been overlooked, even though they significantly impact access to resources and livelihood outcomes (Richards, 1985; Long & Long, 1992, as cited in (Scoones, 2015)). The SLF, notably recognized for its emphasis on institutional processes, provides a comprehensive framework to examine these interrelations (Scoones, 1998).

### Sustainable Livelihood Framework

The SLF was conceptualized by Robert Chambers and Gordon Conway in 1992 and later adopted by the Department for International Development (DFID) UK to support poverty elimination efforts (Carney, 1999, as cited in (Natarajan et al., 2022)). This holistic and dynamic tool aims to understand the multifaceted aspects of marginalized stakeholders' livelihoods from a people-oriented perspective. It highlights the core issues, influences, and interactions that affect livelihoods, aiming for sustainability and resilience without over-reliance on external support (DFID, 1999).

## Adapting the SLF for Forced Displacement

The SLF's holistic approach makes it well-suited for development research and contexts of forced displacement. It facilitates a nuanced understanding of the multiple interactions among livelihood-influencing factors. For instance, studies have used the SLF to examine the effects of development-induced displacement on internally displaced persons (IDPs), emphasizing the recognition of displaced populations' assets and capabilities to promote sustainable livelihoods (Mandishekwa, 2022). In this research, the SLF is adapted to identify digital-related assets, understand entry barriers, and explore sustainable outcomes within the specific vulnerability contexts of displaced communities, such as the digital divide and unstable policy environments.

### Conceptual Framework- SLF

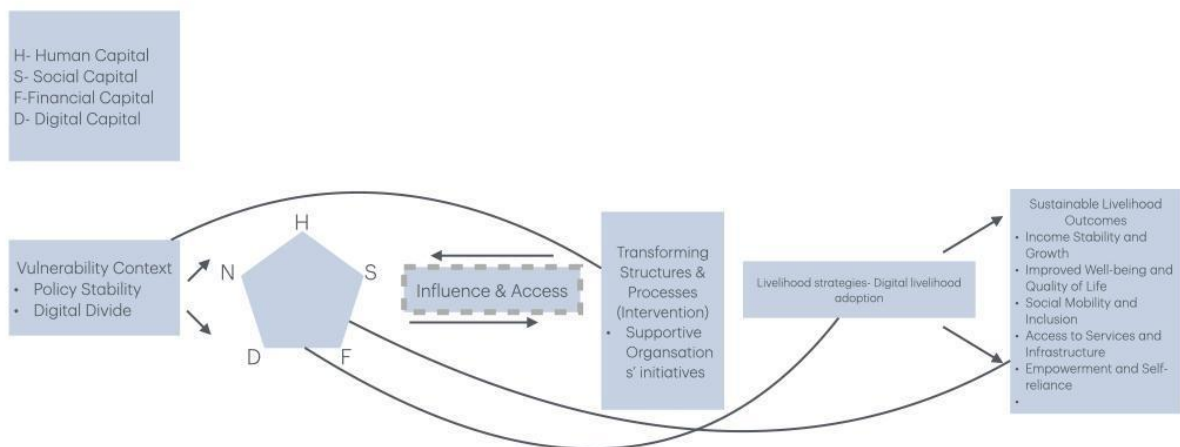


Figure 2- Sustainable Digital-Livelihood Framework (redrawn from SLF DFID)

(DFID, 1999)

**Vulnerability Context:** In displacement situations, vulnerability includes uncontrollable external factors like trends, shocks, and seasonality, which can either limit or enhance coping strategies

(DFID, 1999). Technological advancements have transformed work for displaced individuals, creating digital opportunities and presenting substantial barriers due to a lack of assets and insufficient institutional support (Union, 2019). The transition to digital livelihoods must be examined in the context of these vulnerabilities, including risks of work exploitation, policy constraints, and the digital divide (Dhawan & Zollmann, 2023).

**Critical Assets:** The SLF emphasizes various forms of capital crucial for livelihood strategies. These include human, social, physical (digital), and financial Capital (DFID, 1999). Understanding these assets is critical as they enable displaced individuals to generate positive livelihood outcomes. This research focuses on:

**Human Capital** includes digital literacy, educational attainment, and skill sets necessary for engaging in digital work.

**Social capital** includes networks and connections that support digital work and community participation, including trust within digital communities.

**Digital Capital** involves access to technology, including device ownership, internet connectivity, and quality.

**Financial Capital** includes financial inclusion, credit access, savings, and economic assets supporting self-reliance and socio-economic capabilities.

**Natural capital** includes built Environment, Housing, Transportation, and Electricity that navigate daily activities to enhance productivity and livelihood sustainability.

**Transforming Structures and Processes:** These encompass the policies, institutions, and organizations determining access to livelihood activities. Well-constructed structures can enhance asset development and access to sustainable livelihoods. This research thoroughly reviewed Thailand's legal and policy framework to understand its alignment with the needs for digital livelihoods, protection of digital workers, and inclusivity barriers (Kollmair & Gamper, 2002).

**Sustainable Livelihood Outcomes:** The SLF aims to achieve income stability, improved well-being, social inclusion, access to services and infrastructure, and empowerment. This research evaluates whether livelihood strategies, utilizing assets within a vulnerability context and supported by policies, can achieve these sustainable outcomes (DFID, 1999). The analysis considers potential trade-offs where specific outcomes might challenge others, reflecting the complexity of achieving sustainability in forced displacement contexts.

In summary, this research uses the SLF to explore digital livelihood strategies among displaced Myanmar populations in Thailand, focusing on their vulnerability contexts, critical assets, transforming structures, and sustainable outcomes. This comprehensive approach provides

insights into enhancing displaced individuals' autonomy, resilience, and socio-economic well-being through digital livelihoods.

## **Findings and Analysis**

### **The Landscape of Digitalization in Thailand**

In the era of rapid technological advancement, digital inclusivity is crucial for national development, notably for displaced Myanmar populations in Thailand. Policies like the Thailand Digital Economy and Society Development Plan (2016) and the Development of Digitality for Economy and Society Act (2017) aim to integrate digital technology across Thai society but do not fully address these displaced individuals' unique challenges. While these policies promote broad inclusivity in areas like internet access and digital literacy, the lack of targeted measures perpetuates social and economic exclusion for displaced populations who face additional barriers such as language proficiency and lack of identification documents. Despite high smartphone usage, significant gaps in digital skills among Myanmar migrants remain, influenced by education, age, and the specific needs of smaller companies valuing digital skills.

To bridge this divide, providing affordable access to digital devices, reliable internet connectivity, and integrated language and digital literacy training is essential. Social capital and community integration play vital roles, with personal connections and digital platforms aiding support networks and job opportunities. However, financial constraints and inconsistent internet access hinder overall well-being. Enhancing digital literacy, providing affordable internet services, and supporting small business development can empower displaced individuals economically and socially. Additionally, improving living conditions, access to transportation, and essential utilities are critical for their quality of life. While Thailand's policies promote digital inclusivity, addressing these needs is crucial to fostering an inclusive society that benefits all, including displaced and marginalized communities.

### **Impacts and Challenges for Displaced Individuals in Mae Sot**

Displaced individuals in Mae Sot face significant challenges in education, health, security, digital security, employment, banking, and entrepreneurship, all interconnected and shaping their overall well-being. Financial and time constraints hinder their educational and training aspirations, as seen in Interviewee 06's sacrifice of personal goals to support their sister's education. Health issues are exacerbated by limited access to formal healthcare, reliance on community support, and difficulties with online health services. Insecurity and trauma persist due to identification issues,

with fears of data leaks to the Myanmar SAC leading to selective disclosure of information. Digital security awareness is modest; there are misconceptions about the necessity of digital security training. Employment experiences vary widely, with some feeling controlled by rigid factory schedules while others appreciate the flexibility of online jobs. Access to banking services is difficult due to a lack of documentation, which forces reliance on informal networks and results in financial insecurity. Despite strong entrepreneurial aspirations, logistical challenges, economic constraints, and demanding factory jobs hinder their business ventures. Addressing these issues through targeted support, enhancing digital literacy, improving access to healthcare, providing secure identification processes, and offering flexible work arrangements and financial support can significantly improve the quality of life and resilience of displaced individuals in Mae Sot.

### **Stakeholders' Perspectives and Interventions**

Stakeholders are critical in supporting Myanmar migrants and displaced individuals, utilizing platforms like social media, radio, and direct representation to address the unique challenges faced by these displaced individuals specifically. Organizations like People's Radio Myanmar maintain cultural ties through ethnic-focused content and internal connections. At the same time, MAP Foundation uses diverse channels such as radio, chat boxes, phone calls, and Facebook to connect with the migrant population despite frequent changes in SIM cards and phone numbers. The Suwannimit Foundation (SNF) bridges Myanmar organizations and Thai authorities, emphasizing the need to reach the largely invisible urban refugee population through new programs and collaborative efforts. Digital literacy initiatives by organizations like Saw Foundation and New Myanmar Foundation significantly enhance educational and professional prospects, providing introductory computer literacy courses and seeking donations of second-hand computers. Online learning platforms ensure the safety of undocumented migrants. However, challenges like limited access to digital devices, reliance on volunteer trainers, and the financial burden of maintaining paid subscriptions for online teaching platforms persist. Despite these hurdles, diverse communication channels and digital literacy efforts are crucial for empowering displaced individuals with valuable skills and information, fostering resilience, and ensuring better integration into their host communities.

### **Contribution of Digital Livelihood Activities to Sustainable Livelihoods**

Achieving economic sustainability for displaced individuals in Mae Sot involves addressing the impact of policy on the digital economy, stakeholder interventions, and the experiences of displaced people. Current policies promote digital inclusion and SME support, which can enhance income stability and growth for displaced Myanmar individuals. However, challenges such as language barriers, lack of targeted assistance, and unequal access to digital infrastructure persist. Despite widespread smartphone use, financial constraints limit access to



digital tools necessary for job searches and employer communication. Young, educated individuals with Thai language skills have better digital abilities, improving their employment prospects and incomes. However, barriers like inconsistent internet access, financial instability, and limited banking services hinder economic stability.

Infrastructure improvements support small businesses and remote workers by providing consistent resources. However, high utility costs and limited public transportation options strain financial resources and restrict access to broader economic opportunities. Stakeholder interventions have shown progress in promoting digital literacy, skills training, SME support, and social integration. However, limited access to digital devices, budget constraints, reliance on volunteer trainers, legal documentation issues, and language barriers continue to impede the integration of displaced individuals into the labor market. Informal dissemination of digital security information leaves individuals vulnerable to digital risks.

Social sustainability is also partially achieved with constraints in realizing inequality and inclusivity. However, displaced individuals face barriers to accessing healthcare, legal documentation, and social security benefits. Community support and digital connectivity are vital for maintaining relationships and accessing resources, consistent digital access remains an issue. Organizational efforts to improve mental health and telehealth services show potential, but challenges like legal and language barriers persist.

In conclusion, while digital livelihood initiatives and stakeholder interventions have improved economic and social sustainability for displaced individuals in Mae Sot, significant challenges remain. Addressing these challenges through targeted initiatives in financial services, digital literacy, education, internet access, and legal support is essential for achieving this population's complete economic and social sustainability.

## **Conclusion**

This study examines how digital tools and platforms can help Myanmar refugees in Thailand achieve self-sufficiency and sustainable livelihoods, focusing on human, social, digital, financial, and natural capital. Policies like the Thailand Digital Economy and Society Development Plan (2016) and the Development of Digitality for Economy and Society Act (2017) can improve integration, economic involvement, and social inclusion for displaced individuals. Still, they must be inclusive to be effective. Smartphones are vital for communication and information access. However, significant gaps in digital literacy and access remain. Asset sufficiency analysis reveals strengths in human and social capital but deficiencies in digital, financial, and natural capital, highlighting the need for targeted interventions in education, digital literacy, financial inclusion, and living conditions. Despite efforts, challenges persist, such as inconsistent communication, limited digital device access, reliance on volunteer teachers, legal

and financial constraints, and healthcare access issues. Recommendations include inclusive policy implementation, improving digital literacy and access, enhancing educational activities, supporting SMEs, and developing comprehensive healthcare infrastructure.

Additionally, fostering community support networks and structured digital safety training is essential. The study faced time, sample size, geographic scope, and language translation limitations. Future research should explore beyond Mae Sot, expand the sample size, and conduct longitudinal studies to understand the long-term impacts of digital livelihood initiatives.

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# **The Hidden Costs of Microfinance the Farming Sector in Magway Township, Myanmar**

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## **Abstract**

Limited financial access for farmers hampers profitability, prompting the use of microfinance in Myanmar. Research findings showed that most of the clients in the microfinance program have positive experiences and find themselves increased sources of income. However, the impacts of microfinance are not clear. Microfinance to farmers might satisfy urgent needs, but not improve the socioeconomic lives of farmers in the long run and that might lead to debt burdens. Scholars criticize microfinance, a neoliberal tool, for treating services to the poor as profit opportunities rather than addressing broader structural issues. Doubts about its effectiveness in reducing poverty are raised, with regulation seen as part of a wider concept of neoliberal financialization. The objective of this study is to examine the specific repayment challenges faced by loan borrowers in Magway Region, Myanmar utilizing a qualitative approach. The findings indicate that market manipulation of farm crop prices is the driving force behind repayment challenges farmers face in the Magway Region. This manipulation is primarily caused by middlemen and collective trade centers, who inflate and deflate crop prices to maximize their profits. These practices have negative consequences for farmers, leading to significant repayment challenges. The results suggest that financialization during periods of low economic activity or in situations of market manipulation places farmers in an increasingly risky position.

**Keywords:** microfinance, microfinance repayment, loan, agri-financing, agriculture, Myanmar

## **Introduction**

In 2020, Myanmar Now, a reputable news media outlet in Myanmar, reported on the impact of microfinance in the country. The article pointed out that despite being praised for providing loans to individuals previously excluded from financial inclusion, many borrowers find themselves trapped in a cycle of debt (Thar, 2020). The story featured a woman who initially borrowed money for her betel plantation but faced setbacks that left her family in significant debt (Thar, 2020). This is the story of a woman who faced microfinance repayment challenges. Microfinance institutions (MFIs) were set up to support lower-income individuals in small businesses by providing financial services. However, microfinance institutions also strive for high repayment rates despite lending

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to economically disadvantaged individuals in developing countries, who often lack income, literacy, credit history, and collateral (Sandar et al., 2010) This is because MFIs need to be financially sustainable to consistently support small and micro-entrepreneurs without relying on donors or government (Nawai et al., 2012). Therefore, microfinance needs to be self-sufficient and sustainable in the long run by ensuring full loan repayment.

Myanmar's economy heavily relies on the agriculture sector, which accounts for approximately 30 to 40 percent of its Gross Domestic Product (GDP), as noted by The World Bank Group in 2014. Given the country's strong emphasis on rural development for overall progress, the growth of agriculture plays a pivotal role in poverty reduction. A significant challenge faced in this context is insufficient access to financial resources for farmers, which subsequently leads to reduced profitability. Therefore, microfinance became a tool to provide access to finance to the poorest of the poor in the agriculture sector in Myanmar.

However, microfinance is still limited, and its impacts are not clear. Microfinance to farmers might satisfy urgent need, but not improve the socioeconomic lives of farmers in the long run, and that might lead to debt burdens. Many scholars have pointed out how neoliberal poverty strategies, including microfinance, treat services for the poor as profit opportunities, emphasizing personal risk management within the free market. The microfinance model, a neoliberal tool, seems to promote entrepreneurship but faces doubts about its effectiveness in reducing poverty. Nathan Green (2020) also discussed how the idea of regulating microfinance is seen as a part of the broader concept of neoliberal financialization.

However, microfinance is already being practiced in many developing countries. Although it is believed not to be a comprehensive solution for eliminating long-term poverty, microfinance is assumed to address the urgent needs of marginalized people, providing support for social welfare, food, and healthcare. It is considered preferable to having no access to any financial services. Therefore, it makes sense to examine the current challenges that borrowers face in the microfinance world. The critical question is identifying the contributing factors that determine whether microfinance borrowers gain or lose after obtaining a loan.

### **Theoretical Background**

Microfinance originally meant to fight poverty. However, overwhelming evidence now indicates a serious problem of 'mission drift,' with MFIs increasingly deviating from their initial poverty reduction goals (Bateman, 2021). In the late 1980s, there was a push to make microfinance more like a business. This change, called the 'neo-liberalization' of microfinance, aimed to turn Microfinance Institutions (MFIs) into businesses that make a profit (Bateman, 2010).

The financialization of the microfinance industry, driven by neoliberal reforms, has reshaped national development policies into a 'debt fare' (Green, 2020). Green also articulated that

the MFIs prioritize access to formal financial services over helping people with social programs. Consequently, the industry's way of regulating itself to offer more financial services has faced criticism. Without enough government oversight, competition among Microfinance Institutions has increased, leading to more debt and easier lending (Green, 2020). The commercialization model has added momentum to the abandonment of microfinance's social mission, leading to growing recognition of client mistreatment due to commercial pressures (Bateman, 2021).

## Methodology

The qualitative research was conducted using both primary and secondary data, including a review of the literature and an in-depth interview survey using a semi-structured questionnaire. The primary data is collected from semi-structured in-depth interviews with 10 farmers. For this study, the interviewees include microfinance borrowers in the Magway Township, Magway Region in Myanmar.

| <b>Microfinance Borrower</b> | <b>Year of Farming</b> | <b>Village Name</b> | <b>Number of MFIs Currently Borrowed From</b> | <b>Loan Profile<br/>(Interest Rate is 2.3% for all MFIs)</b>  |
|------------------------------|------------------------|---------------------|---|---|
| Farmer A                     | 15 Years               | Yin Thar Si         | 1   | Size: Confidential, Term: 6 months<br>Fees: 1%, Saving: 5%<br>Payment: seasonal installments  |
| Farmer B                     | 3 Years                | Sam Ma Gee          | 3   | <b>MFI 1:</b> Size: Confidential, Term: 6 months<br><b>MFI 2:</b> Payment: seasonal installment, Size: MMK5,000,000, Term: 8 months, Payment: seasonal installment<br><b>MFI 3:</b> Size: Confidential, Term: 12 months<br>Fees: 3%, Saving: 6%, Payment: every two weeks |
| Farmer C                     | 8 Years                | Same Ma Gee         | 2   | <b>MFI 1:</b> Size: MML5,000,000<br>Term: 24 months<br>Payment: Monthly, Fees: 2%, Saving 10%<br><b>MFI 2:</b> Size: Confidential, Term: 6 months   |

|          |          |            |   |  |
|----------|----------|------------|---|--|
|          |          |            |   | Payment: Seasonal Installment  |
| Farmer D | 25 Years | Sam Ma Gee | 1 | Size: MMK500,000, Term: 12 months, Fees: 1.5%, Insurance-0.5%, Saving: 5%<br>Payment: Seasonal Installment                                 |
| Farmer E | 3 Years  | Hpo Way    | 1 | Size: MMK500,000, Term: 24 months, Fees: around 8%, Saving: 10%, Payment: Monthly  |
| Farmer F | 40 Years | Chaing     | 1 | Size: MMK3,000,000, Term: 12 months, Fees: 2%, Saving: 5%, Payment: Monthly  |
| Farmer G | 22 Years | Kan Gyi    | 1 | Size: 700,000MMK, Term: 6 months, Fees: MMK3,000, Payment- Pay interest after 4 months and the rest after 6 months                         |
| Farmer H | 25 Years | Hpo Way    | 1 | Size: MMK1,000,000, Term: 10 months<br>Payment: Monthly  |
| Farmer I | -        | Sam Ma Gee | 2 | <b>MFI1:</b> Size: Confidential, Term: 8 months<br><b>MFI 2:</b> Size- Confidential, Term: 24 months<br>Saving: Depending on the loan size |
| Farmer J | 20 Years | Late Kan   | 1 | Size: MMK130,000, Term: 6 months<br>Interest: 1%, no extra charges   |

Figure 1: List of Interview Participants

The primary geographical focus of this study is the Magway Township, Magway Region in Myanmar, given its significant role as a microfinance hub with 15 private microfinance institutions in 2021. The study will primarily emphasize the microfinance sector within the Myanmar agriculture industry. The focus will be on understanding the repayment challenges of microfinance borrower farmers, particularly those engaged in non-standard employment in agriculture, as primary participants.

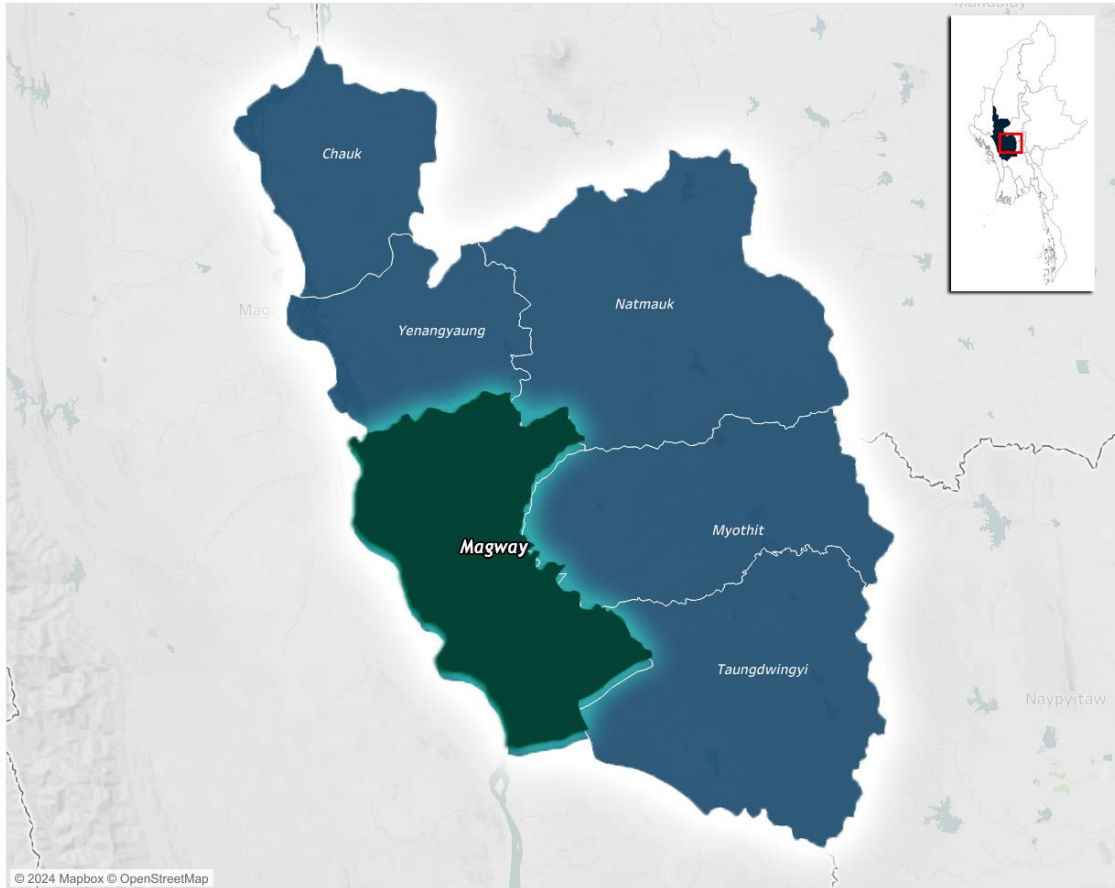


Figure 2: Map of Magway Township

## Findings

### Support Service by Microfinance Institutions

The findings indicate that microfinance institutions (MFIs) mainly utilize a group lending model, wherein borrowers collectively receive loans and share responsibility for repayment. However, despite initial village meetings introducing financial services, ongoing support or capacity-building initiatives from MFIs are lacking. The result revealed that loan sizes and terms vary among MFIs, yet they do not present significant challenges regarding repayment. While some borrowers advocate for increased loan amounts, others caution against it. Interest rates are capped at 28 percent annually, perceived as reasonable compared to informal lenders. However, additional fees contribute to the total cost of borrowing, though borrowers still favor MFIs over informal sources. Despite minimal support beyond the loan itself, borrowers do not perceive this lack of assistance as a hindrance to their repayment efforts.

### Lifestyle of Farmers

None of the interview participants reported using the loans for non-productive activities. However, Farmer A mentioned witnessing some cases where farmers took out agricultural loans to cover non-productive expenses due to household income constraints. Instead of investing in



farming activities, these farmers diverted the loan towards paying for their children's education fees, health expenses, and other household needs. Despite the misuse of funds, they managed to find ways to make timely repayments on the loans, often by borrowing from informal sources. Only in very few cases did farmers sell livestock like cows or goats, or pawn their farmland to repay the loans during the due dates.

Half of the interview participants revealed that they were taking out multiple loans from two to four different microfinance institutions. These borrowers admitted to being trapped in a cycle of borrowing from one institution to repay loans from another, perpetuating a debt cycle involving two to four different MFIs.

Case of Farmer B: This participant is currently taking four loans at once. The cycle is that one microfinance institution is repaid after the harvest season, and then another loan is taken from another MFI to reinvest in the farm. If any cash remains after repayment and reinvestment, the participant uses it to buy gold for savings or other assets. However, if the participant does not get enough money to repay after the harvest time due to less productivity, another loan is borrowed from informal lenders with higher interest rates.

When these deadlines do not align, or farmers struggle to pay back on time because of financial constraints, they often resort to pawning gold or borrowing from informal lending sources to avoid violating the group lending social contract and to protect the village's reputation. They may also seek additional loans from other microfinance institutions if available in their village. Therefore, multiple borrowing arises as a result of repayment challenges, not as the cause.

### **Income Variability**

Microfinance loans are typically structured with repayment schedules aligned with the expected harvest season. The interview participants faced unfavorable weather conditions that affected farming productivity in 2018, 2019, and 2020. As a result, some farmers struggled to repay their loans on time.

The unstable market condition has a serious impact on the repayment challenge of the borrower farmers. The farmers in the Magway Region are facing income variability due to the unstable market prices, which are caused by market manipulation by middlemen. All of the interview participants confirmed that this is the main reason they face challenges in making loan repayments even after the harvest season. The primary issue is the financial gap between the investment required for farm inputs, labor costs, and the eventual selling price during the harvest season. In Yin Thar See Village in Magway Township, the farmers struggled to repay their agricultural loans because the market price for peanuts during the harvest time was meager, significantly lower than the investment required for growing the peanuts.

Farmer A invested MMK30,000 for one basket of peanut seeds, labor costs, and other farm inputs. Despite favorable weather conditions and a yield of 25 baskets from one basket of seeds, the selling price during the harvest season was only MMK12,000 per basket, leaving little room for profit after deducting labor costs and farm inputs. Furthermore, the price increased to MMK30,000 per basket a month later, indicating potential market manipulation by the middlemen. Farmer B bought red peanuts at MMK40,000 per basket, anticipating high sale prices. However, during the harvest time, the price dropped to MMK22,000 per basket. After selling at this lower price, the market price increased again to MMK45,000 per basket, resulting in significant losses for the farmer and further indebtedness. Therefore, there are concerns about the middlemen manipulating market prices, depressing prices during harvest when farmers need to sell, and then raising prices soon after.

## **Discussion**

Microfinance in Myanmar presents a complex scenario where despite its initial promise of empowering lower-income individuals, particularly in the agricultural sector, it often leads to borrowers being trapped in cycles of debt. Immanuel Wallerstein stated the ways in which income and profits are generated within the realm of financial means and operations. The key to profit-making in providing financial services such as microfinance loans is lending money and collecting interest payments without a real new value creation or production (Wallerstein et al., 2013). Therefore, the essential dynamics of capitalism, centered around producing and accumulating capital, persist in financial activities by focusing on wealth accumulation without necessarily producing goods (Foster, 2007). The situation of farmers in Magway reflects Wallerstein's take on the operation of the financial sphere. Due to the low economic activities in the region, which are caused by market manipulation, the farmers are losing their profit from their produce. However, due to the persisting financialization, these sesame and peanut farmers face fundamental issues with the nature of debt-based lending and the unsustainability of such a system.

The goal of microfinance is to maximize the capacity of farmers and the productivity of farm produce by providing them with loans to invest. It is assumed that providing loans for farm investments will improve the economic situation for the farmers. However, improving economic activity is not only about providing financial services like microfinance. The holy trinity to enhance the economic development of a region includes production, commerce, and finance (Wallerstein et al., 2013). Microfinance institutions are indeed providing banking, lending, investment, and monetary services in the Magway Region and imposing financial activities to support farmers with agricultural loans. However, from the testimonies of the farmers who participated in the interviews, it is apparent that the other two forms of economic activities, production and commerce, are lacking in the Magway's economic landscape. This leads to the farmers not getting enough profits from farm productivity. The findings proved that the market instability in the Magway Region, driven by the market manipulation of the middlemen, is the main cause of the repayment challenges of the borrower farmers. These actors influence prices

significantly, exploiting the balance of supply and demand dynamics to their advantage. During harvest seasons, when the market is flooded with abundant supply, these intermediaries procure farm products at rock-bottom prices, driving down the overall market value. For farmers burdened with loan repayments, this presents a dire situation. As they cannot negotiate or afford the luxury of waiting for prices to rebound, they are forced into selling their produce at unfairly depressed rates simply to meet their financial obligations. Meanwhile, once the middlemen have collected their stockpile of agricultural goods, prices surge again. This cycle of artificial price deflation and subsequent inflation places farmers in Magway Township at a severe disadvantage, trapping them in a continuous struggle to make ends meet. However, due to the access to microloans from different microfinance institutions in the region, these farmers still need to pay regardless of their unstable household income. Additionally, they are paying interest on their principal loans. Despite the economic instability in the region, these loan operations continue to thrive remarkably well. However, due to the social contract of group lending practice, Magway Township farmers have to repay the loan at due times. Therefore, the situation pushes farmers to face challenges in repaying microfinance loans. This result shows that providing microfinance financial services amid economic downturns backlash the farming community.

Another limitation of financialization is the need for a continuous influx of new borrowers to sustain the lending system (Wallerstein et al., 2013). As existing borrowers pay off their debts, Wallerstein explained, the system requires new borrowers to replace them and maintain the flow of lending and indebtedness, or it requires the current borrowers to borrow from them continuously. Farmer B testified that after three to seven days of making repayment, the microfinance institutions encourage the farmers to take another loan. This creates a dependency on an ever-expanding pool of debtors, which can potentially lead to unsustainable debt levels. Out of the ten participants, eight of them are tempted to keep borrowing when the current loan is paid off and it was encouraged by the MFIs by increasing the loan amounts each time. Three of the participants also admitted to multiple borrowing from two to four different microfinance institutions, leading to a cycle of debt. The practice of group lending with a social contract binds farmers to repay both the principal and interest on time. Therefore, they resort to borrowing from multiple sources. Thus, borrowing from various sources is not the root cause of repayment challenges; rather, it is a consequence of the income variability experienced by farmers. The fact that the operation of the microfinance institutions includes maintaining the flow of lending to maximize their own profits encourages the availability of more loans even under the above circumstances.

Another key finding in this study is the practice of group lending. Grameen-led microfinance introduced group lending to solve issues of collateral. There is some research which proves that group lending has a positive impact on the repayment (Soe, 2019); (Bumbie, 2013). Throughout the research, all the participants testified that one of the main drivers of their timely repayment is the group lending practice. Due to income variability, borrowers struggle to make

payments, but the group lending practice prevents postponing repayments. To avoid losing face among friends and neighbors and to maintain their village reputation, farmers borrowers ensure they meet their repayment obligation on time. Ensuring the repayment obligation means borrowing from another microfinance or informal lending services. Therefore, basically, farmers burden themselves with more loans to repay MFIs, bound by the social contract of group lending. While the goal of providing farmers with access to finance is to support them, group lending adds pressure, leading farmers to seek additional funds from other sources, including informal loans when the income variability imposes repayment challenges.

## **Conclusion**

Microfinance programs are considered a key element for providing access to finance to the farming community, aiming to help them escape poverty. However, this study reveals that microfinance services impose greater risks on farmers due to the region's unstable economic conditions. Furthermore, to maintain their profitability, MFIs must continue lending to borrowers, and the group lending practice intensifies the challenges faced by farmers. For farmers, the cyclical expansions and contractions of household loans create additional layers of financial instability (Bonizzi, 2013). During normal economic situations, taking more loans may help to increase consumption and economic growth. However, during economic downturns or periods of financial stress, the farmers struggle to repay their debts, leading to financial distress. Apparently, the economic activity in Magway Township has declined and the farmers are facing income variability. However, access to microfinance has increased, which has led to a significant rise in household debt levels. The field data highlighted that during the decline of economic activities in Magway Township, the increase in the number of microfinance institutions is evident. Each of the villages which were involved in the interview indicates the availability of microloans from at least two and at most seven microfinance institutions per village. Increasing access to microfinance institutions may not be conducive to addressing the challenges faced by farmers during periods of price fluctuation, market manipulation and economic uncertainty. In such unstable economic conditions, farmers may struggle to generate sufficient income to meet their repayment obligations. Consequently, instead of alleviating poverty, microfinance loans in these circumstances can trap farmers in a cycle of debt and heighten their vulnerability.

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# URBAN PLANNING AND SUSTAINING LIVE MUSIC ECOLOGIES IN BANGKOK, THAILAND: LESSONS FROM OTHER ASIAN CITIES

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## **Abstract**

This paper advocates for integrating the live music industry into urban planning frameworks, highlighting its high potential. In the wake of the recent *Taylor Swift* concert controversy involving Singaporean and ASEAN politicians, it is essential to recognize the parallels between attracting foreign artists and foreign direct investments in the region. Singapore's success in establishing itself as a regional and global entertainment hub is evident. However, this paper explores whether a developing country like Thailand can achieve a similar status. This paper investigates Thailand's capacity to host internationally renowned artists by examining the connectivity and infrastructure of its stadiums and concert venues and whether the Thai government has reviewed relevant policies, tax regimes, and negotiations with entertainment companies. By building on the four values of live music—economic, social, cultural, and spatial—this paper evaluates the broader impact of hosting live music events on urban environments.

**Keywords:** Urban Planning, Sustainable Development, Live Music Industry, Concert, Thailand

## **Introduction**

Contemporary urban policymakers are shifting their attention to live music festivals (Quinn et al., 2021). With the growing demand to host live music events, Whitford et al. (2014) argue that the event policy environment has been driven by market forces. However, this notion is often criticized by academic commentators as festivals fail to deliver the expected economic outcomes and are often associated with problems of environmental sustainability (Hazel and Manson, 2020). Nonetheless, events continue to be a key strategy in driving tourism and enhancing the competitiveness of destinations, given the proper development and marketing efforts (Klinmalai and Kaewlai, 2021). The Organisation for Economic Co-operation and Development (OECD) (2017) believes that events act as a

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catalyst for local development. According to a report by OECD (2017), events create business, social, cultural, and environmental benefits if coupled with an effective branding of the tourism industry. However, these benefits cannot be sustained if the city lacks long-term investment in infrastructure, trade, and tourism (OECD, 2021).

Klinmalai and Kaewlai (2021) claim that organizing major events could potentially drive the competitiveness of destination cities, especially host cities. This is especially true with the *Taylor Swift* fiasco that sparked conversations among policy makers in Southeast Asia which will be discussed below. Structured in three parts, the first section assesses Bangkok's urban planning and readiness for live events. The second section reviews the urban strategies of other Asian cities, drawing comparisons and lessons. The third section provides policy recommendations at enhancing Thailand's appeal as a live music destination. This approach stresses the potential of live music to contribute significantly to urban development and regional positioning in the global entertainment industry.

### **Urban Planning Theories**

Urban development and the distribution of creative communities can be understood similarly to natural ecology. Van Der Hoeven and Hitters (2023) suggest this is "based on a symbiotic relationship between interdependence and territoriality" (Baker, 2019, p. 37). Live music ecologies are a type of urban ecology with distinct characteristics (Van der Hoeven et al., 2022). First, live music is a cultural practice focused on an aesthetic experience. It is a temporary event that is highly meaningful to participants and can be part of their identities. Second, live music ecologies consist of a network of actors and organizations that shape live music practices. These actors can be from inside the music industry (e.g., booking agents, venues) and outside it (e.g., policymakers, regulators) (Behr et al., 2016). Third, live music relies on material resources, such as stages, the built environment, and touring facilities. Fourth, live music is a social institution, structured around institutionalized norms and implicit rules (e.g., concert rituals and genre conventions) (Holt, 2020).

Gibson and Homan (2007) suggested that one fundamental theory of gentrification and redevelopment highlights the role of consumption and cultural capital in urban actor-networks. City residents are cultural consumers (e.g., buying CDs, attending cinemas, reading books) and cultural producers. They generate "cultural capital" (Gibson and Homan, 2007), which is the knowledge of trends and styles in urban creative industries, and "subcultural capital" (Gibson and Homan, 2007), which involves tastes from subcultures of music, fashion, and design. Creative industries interact with various "cultural gatekeepers" or "critical infrastructures." These include street press, movie reviewers, and fashion shows that define style patterns and guide urban trends in music,

fashion, food consumption, and local tourism. Specific locations attract new residents who are often direct cultural producers (e.g., musicians, artists, actors). These residents reinforce bohemian and cosmopolitan images of urban spaces, attracting more cultural producers and consumers. For instance, Bangkok, Thailand has a fair share of cultural producers with the growing number of Thai Pop artists hosting concerts in the city. It can be argued that this naturally attracted fans (consumers) to the urban spaces where concerts are being held.

Sustainability today is embedded in most states' developmental plans, and private corporations have begun to take a more critical role in ensuring their businesses align with these goals. Many efforts to ensure the long-term sustainability of global systems primarily target high-impact industries like fossil fuels, fisheries, and forestry (Burr (2006), as cited in Brooks et al., 2007). However, in achieving long-term sustainability, it requires addressing all aspects of societal unsustainability, not just those currently in the forefront of concerns or media headlines (Brooks et al., 2007). This encompasses activities considered recreational or enjoyable, such as the live music industry.

Richards (2017) suggests the eventful city process-based approach, where events catalyze urban processes. Events help frame and distinguish the city. Richards and Palmer later defined the eventful city concept: "An eventful city purposefully uses a program of events to strategically and sustainably support long-term policy agendas that enhance the quality of life for all" (Richards, 2015a, p. 39). This approach aligns with "smart growth" strategies. European policymakers have adopted them to support a growth agenda. This agenda includes a balanced industrial mix, new knowledge, technological platforms, and innovations (Cooke and De Propriis, 2011). Eventful cities use events to achieve sustainable growth and development across various policy areas. Cities like Edinburgh, Barcelona, Montreal, Melbourne, Rotterdam, and **Singapore** lead these developments (Richards and Palmer, 2010).

## **Methodology**

This paper applies a qualitative method based on secondary data from examining international, national frameworks regarding urban planning and sustainable development. The discussion on urban planning theories will focus on the concepts that best fit the current practices on the ground. This paper also reviews sustainable reporting from the music industry in several Asian countries. In addition, several references have been made to NGO reports and media reporting to explore some of the case studies.



## **Findings**

### **Bangkok, Thailand**

According to the World Bank (2020), more than 80 percent of the world's gross domestic product (GDP) is generated in cities, highlighting the urgency for urban planning and basic infrastructure plans to support the expansion of these cities. However, this continues to become a struggle for cities like Bangkok, Thailand which host millions of tourists annually. For instance, in Khao Yai, Thailand, it was reported that a concert drew over 100,000 fans, causing logistical issues (Thai PBS, 2022). The event reportedly strained local accommodation, resulting in fully booked hotels and resorts in the district. Additionally, Thai PBS (2022) reveals that the massive crowd generated a substantial amount of waste, consisting of soft drink and beer cans, water bottles, and food containers, overwhelming the available garbage collection resources.

For instance, one of Bangkok's most prominent concert venues, the Rajamangala Stadium, has limited accessibility. Concert attendees tend to opt for taxis and other e-hailing rides contributing to higher carbon footprints. A more affordable commute such as public water taxis, which are only known by local attendees are not known among foreign attendees. According to a survey conducted by Suvachart (2018), the sporting events at Rajamangala National Stadium promote economic growth, bring the community together, and increase the demand for food and beverages, as well as accommodation services. However, the survey also revealed that the events resulted in negative impacts such as heavy traffic congestion, transportation inconvenience, pollution – noise, air, and overloaded garbage (Suvachart, 2018).

Impact Arena which hosts events almost every week of the month, has also limited public transport options. However, efforts have been made by public van services that offer affordable rides to and from the city, with English-translated maps on how to use their service (IMPACT Exhibition Management, 2024). Impact arena has also been criticized by locals for their limited accessibility and entry points, causing massive traffic congestions. However, mitigation plans were taken by the IMPACT management which includes cancellation of Sunday market and provision of free public transportation (IMPACT, 2013). Nonetheless, despite these efforts, it was reported that traffic congestion

continues to cause inconveniences to public road users entering and exiting IMPACT Muang Thong Thani areas (JS100Radio, 2024).

### **Lessons from other Asian Countries**

#### **Singapore, Singapore**

It is argued that the responsibility of organizing significant events should not be solely by the event organizer but involves a wide range of stakeholders, including the government (Klinmalai and Kaewlai, 2021). Multiple public-private organizations organizing major events can utilize these events for their ulterior objectives. Klinmalai and Kaewlai (2021) put forward an analogy for instance the event organizer can increase the total venue and revenue for the event, the government will benefit when the city's prosperity increases, national and international governing authorities will be able to advance their sustainable goals. On top of that, economic and tourism development authorities can drive trade and tourism, event sponsors can increase sales and branding value (Klinmalai and Kaewlai, 2021). However, Klinmalai and Kaewlai (2021) stress that this can only be achieved if coordination is done by government and event organizers to bridge these stakeholders. It is argued that this has been the case for Singapore.

In Singapore, it was recently evident that event organizers collaborated with the government to subsidize the *Taylor Swift's* concert USD 2 to 3 million for six of her shows in the city (Ng, 2024). This has caused debates among politicians in neighboring countries. It was reported that this deal was first publicly shared by Thailand's Prime Minister, Srettha Thavisin and subsequently commented by politicians from Malaysia, the Philippines, and Indonesia demanding Singapore's Prime Minister Lee to address this issue. Prime Minister Lee confirmed that arrangement was certainly negotiated but stressed that it was done on goodwill to bring in visitors and grow the economy (The Guardian, 2024). In turn, the tourism industry in Singapore was breaking records with hotel and airlines searchers going up to 30 per cent, contributing 260 to 375 millions of SGD's being spent by foreigners visiting the city for *Taylor Swift's* concert that week (Cabato, 2024). This exemplifies the importance of public-private cooperation when hosting live music concerts in a city where the benefits trickle down to stakeholders involved.

#### **Kuching, Sarawak, Malaysia**

Another example of urban planning and music festivals in the region is the Rainforest World Music Festival (RWMF) held annually in Kuching, Sarawak, Malaysia, the RWMF featured international and local artists including indigenous groups. For RWMF 2024, the theme 'Evolution' aims to blend sustainability, responsible tourism, and

cultural exchange (Borneo Bulletin, 2024). According to RWMF (2024), the organizer provides attendees with seating areas made from sustainable materials, designated eco-stations for waste management, and water dispensers as part of their single-use plastic campaign, which is arguably a rare occasion at other events as water bottles can be sold at a much higher price. Additionally, the organizer has been collaborating with selected hotels in the city center to offer shuttle services to and from the concert venue which is located an hour away from the city. On top of that, the vendors that occupy the official event spaces are from local entrepreneurs and indigenous groups selling affordable handicrafts. This ensures that the event remains accessible, inclusive, and environmentally friendly and reflects the public-private commitment.

However, the federal government of Malaysia, continues to impose high taxes on foreign artists performing in the country. This has passed the cost on to consumers, driving ticket prices up, and making the country one of the most expensive concerts in the region. For comparison, a VIP ticket for Blackpink's concert in Malaysia cost up to MYR 1,888 (approximately 14,700 THB) while a VIP ticket in Thailand costs only 9,600 THB (Live Nation, 2023). On top of that, multiple regulations are imposed for foreign artists wishing to perform in the country such as respect towards its Islamic sentiments (Zamsari, 2024). This arguably has become one of the few factors making Malaysia not an attractive destination for foreign artists to perform, but it has been an added advantage for countries like Thailand to attract foreign artists and fans from Malaysia to visit.

## **Seoul, South Korea**

From an artist point of view, Blackpink, a popular band from South Korea are utilizing their huge fanbase and platform to advocate for sustainability continuously. In 2020, Blackpink was appointed ambassador for the United Nations Conference on Climate Change (COP 26) and has been delivering a powerful message to the world since then. In 2024, YG Entertainment, Blackpink's entertainment agency released their first Sustainable Concert Report (2024) as part of their commitment to environmental audit and reporting.

According to YG Entertainment (2024), the report measured fans' GHG emissions traveling from all over the world to attend the concert. Your Green Step Booth was also set up at the concert venue to survey carbon emissions (2,000 surveys) and at the same time advocate for sustainable lifestyle among Blackpink fans. In addition, event venue accessibility is also guaranteed with Barrier-Free (BF) Certification allowing individuals with temporary disabilities to access, use, and navigate spaces without difficulties. Moreover, fan protection through fair ticket sales - prevent ticket scalping (through a strict identification process) and adhere to consumer dispute resolution standards for refund

policies. The report also included Inclusive concerts and participant diversity where Blackpink concerts in Saudi Arabia, YG Entertainment considered the local culture, customs, and religious practices. The artist management company also prepared greetings in the local language, tailored the artists' and performers' stage attire to be more conservative, adjusted speaker volumes during Islamic prayer times, and modified certain choreography elements, such as removing pole dancing and limiting physical contact between male and female performers. On Intellectual Property Rights, Save Our Stars Booth was established to combat counterfeit merchandise ahead of concerts and draft a manual detailing specific anti-counterfeiting procedures (YG Entertainment, 2024). However, it is argued that this action may impact small vendors near the event venue.

This example highlights the importance of **environmental audits** to evaluate the extent of a business's impact towards the environment. Cummings (2014) highlighted several objectives of environmental auditing in assisting festival organizers – it allows the organizers to evaluate the efficiency in handling festival aspects that can influence the environment, it helps in prioritizing actions to minimize environmental impact, and environmental audits would enable organizers to demonstrate accountability and due diligence to third parties, primarily government entities, shareholders, and attendees (Cummings, 2014). Environmental audits offer cost-saving benefits to festival organizers through early detection of potential environmental impacts (Cummings, 2014). For example, it can help reduce expenses related to energy consumption, resource use, and waste generation.

## **Conclusion and Policy Recommendations**

In order to sustain the live music ecologies in Thailand, the government needs to formulate its urban planning to incorporate experiences from the music industry. As exemplified by the case studies above, accessibility remains an issue for urban cities like Bangkok where public transport accessibility is lacking to concert venues. To supplement this, **shuttle services** such as in Kuching, Sarawak, should be provided and marketed to international fans to ensure a guaranteed mode of transport before making their decision to attend the concert in Bangkok. The **availability of accommodation** near the concert venue remains an issue as hotels are concentrated in the city center of Bangkok which encourages attendees to opt for e-hailing rides which in turn contributes to traffic congestion as reported through a survey above. It is also recommended that cities remain **inclusive and sensitive to cultures** as exemplified by Blackpink when performing in Muslim-majority countries. Therefore, the event organizers should prepare vendors of Halal and Vegetarian food options for Muslim attendees coming from Malaysia and Indonesia. Additionally, urban policymakers and event organizers can **work with local artists as ambassadors for sustainability** and leverage their fame to advocate among fans. Lastly, as highlighted

above, an **environmental audit** should be considered by local authorities as a post-mortem to improve environmental standards in the municipality.

As Richards (2017) suggests, cities use events to improve quality of life and support long-term goals. Festival organizers are strategically positioned to lead the creation of green events as they are the point of contact for all stakeholders (Cummings, 2014). Festival organizers are well-connected with the audience, artists, and suppliers of transport and energy systems. In this regard, sustainable education and capacity building should be done by organizers in order to ensure a trickle-down effect in the entire concert supply chain. This aligns with SDG goal 17, which recognises the importance of collaborative efforts among government, business, civil society, and individuals. It is important to stress that urban planning in Thailand needs to incorporate best practices of the live music industry into their urban planning strategies. The live music ecology in Thailand has the potential if it addresses the problems that have been identified and consider the policy recommendations mentioned.

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# THE IMPACT OF OIL PALM PLANTATIONS ON INDIGENOUS LAND RIGHTS IN THE STATE OF MIZORAM, INDIA

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## Abstract

Introducing oil palm plantations in Mizoram, Northeast India, creates a complex interplay between economic development and Indigenous land rights. It is undeniable that Indigenous peoples have a deep spiritual, cultural, and social connection with their lands, territories, and resources. These connections are considered fundamental to their identity and existence. When indigenous people lose control of land and natural resources, it can have serious consequences. It can lead to the decline of traditional ways of livelihood. This loss affects food security and weakens customary land rights, traditional institutions, and other cultural and spiritual connections to the land. Despite recognition of their deep-rooted land connections in both domestic and international law, indigenous communities still face marginalization due to government policies and business interests. Over the past two decades, indigenous farmers in the state have been increasingly incentivized to transition from their traditional land use practices to the monocropping of oil palm through policy and legal initiatives. This study undertakes a comprehensive analysis of the political economy and political ecology around oil palm plantations in Mizoram, focusing on the land rights of the indigenous Chakma community. The study would show that the economic pressure from oil palm companies and the state places the community in a precarious situation, jeopardizing their recognized rights.

**Keywords:** Chakma, Human Rights, Indigenous Peoples, Scheduled Tribe, Oil Palm, Land Rights, Mizoram.

## Introduction

India is the world's largest importer of oil palm and relies heavily on these imports to meet domestic demand. Around 90 percent of the oil palm consumed in the country is imported (Niyogi, 2023). The Government of India launched the National Mission on Oilseeds and Oil Palm (NMOOP) in 2014 to address this imbalance. In addition, a new oil palm scheme was introduced in 2021, specifically targeting the North Eastern region, with a financial outlay of INR 11,040

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crore (approximately USD 1.5 billion). The Prime Minister of India described this scheme as "a game-changer" for the country's self-reliance (Sinha, 2021, para. 4).

Monocropping can have positive and negative consequences for farmers growing monocrops like oil palm. For indigenous communities, the implications could be disproportionate due to the intrinsic relationship they share with their lands. The issue is now a subject of much debate in India with the introduction of oil palm plantations in the northeast region.

Mizoram was the first state to experiment with oil palm plantations since 2005. The state's Legislative Assembly passed the "Mizoram Oil Palm (Regulation of Production & Processing) Act, 2004" on December 2, 2004, and has actively promoted oil palm cultivation since then (Tomar, 2019). Oil palm cultivation is implemented through a Public-Private Partnership (PPP) involving the State Agriculture Department and partner companies. The state government has signed a Memorandum of Understanding (MoU) with three companies, namely Godrej Agrovet Ltd. and 3F Oil Palm Agrotech Pvt. Ltd and Ruchi Soya Industries Ltd. and assigned them to specific districts. As of July 2021, around 10,843 indigenous farmers are involved in oil palm cultivation in 197 villages in 7 state districts (Directorate of Agriculture, n.d.).

The impact of the government's oil palm law and policy on the rights of socio-economically marginalized Indigenous communities in the state remains unclear. A comprehensive and systematic study on this topic is lacking, resulting in a significant knowledge gap. This study aims to conduct a political economy-political ecology analysis of the situation and establish connections to a human rights-based approach to land rights for indigenous peoples in the state.

The study focuses on the ethnic Chakma community in Lawngtlai district. According to the 2011 Census, Mizoram's population is 1,097,206, with 94.43 percent being Schedule Tribes (ST). The Scheduled Tribes (ST) could be considered the Indigenous peoples in the Indian context, and the term may be interchangeably used in this study. The Chakma population in the district is around 51,549 (Census of India, 2011), and the community comprises around 8.83 percent of the state's total population.

The Constitution of India acknowledges the distinctive socio-cultural fabric of Mizoram. Article 371G of the Constitution provides special recognition for the religious and social practices, customary laws, and land ownership and transfer rights of the state's Indigenous population (Constitution of India, 1950). This Article specifies that even a law enacted by Parliament shall not operate in the state on issues of religious or social practices of the state's indigenous population unless the Legislative Assembly of Mizoram decides by a resolution. Lawngtlai district also falls under the Sixth Schedule of the Indian Constitution, establishing three Autonomous District Councils for the Chakma, Mara, and Lai minority communities. Economically, the district is one of the most backward districts of the state, and about 60 percent of the total population depends on agriculture. About 37.54 percent of the households fall Below the Poverty Line (BPL). The district's literacy rate, at 66.41 percent, is the lowest in the state. The literacy rate among the

Chakmas in the district is significantly lower at 46.38 percent, while the state average is 91.33 percent (Chakma Autonomous District Council, n.d.).

Despite the constitutional safeguards, indigenous communities such as the Chakmas face socio-economic marginalization. The economic pressure from oil palm companies and the state puts them in a vulnerable position, threatening their rights as recognized by domestic and international law. This pressure could lead to a shift from traditional farming methods to monoculture, potentially affecting their cultural rights related to traditional land use practices.

The insights from this study could be valuable for policymakers, government officials, and civil society organizations. In particular, it could provide strategies for enhancing the protection of land and their custodians. The study can inform the community about the ongoing process and educate the public about the effects of such a transition.

## **Research Methodology**

This research employed a qualitative methodology and adopted a narrative style to document and narrate the stories and experiences of Indigenous communities in the target villages. Qualitative data was collected through in-depth interviews with farmers using a flexible combination of semi-structured interviews and informal conversations to understand their lived experiences. A thematic/narrative analysis was used to interpret qualitative data, identifying recurring themes related to cultural impact and community perceptions around the issue.

The research was conducted in three villages in the Lawngtlai district of Mizoram. Interview participants were selected using snowball recruitment through local contacts, including personal connections within the district. Key informants, such as community leaders and local village council representatives, were selected through direct recruitment.

A purposive sampling method was used, focusing on farmers who have transitioned or are transitioning to oil palm plantations. The sample consists of fifteen (15) farmers and five (5) key informants from the three villages within the district. The sample size has been chosen to meet the research goals and objectives, providing sufficient data to address the research questions. The interview lasted approximately 30-45 minutes with each participant.

## **Discussion**

### ***Land rights as cultural rights of Indigenous peoples in international law***

A literature review of the cultural rights framework shows that the concept has evolved, for instance, under the Declaration on the Rights of Indigenous Peoples (UNDRIP), International Covenant on Civil and Political Rights (ICCPR), and Indigenous and Tribal Peoples Convention, 1989 (ILO 169) provisions, along with the interpretation and jurisprudence developed by the Human Rights Committee. Indeed, the concept of cultural rights has emerged from the rights

claims made by indigenous rights movements stemming from their special and unique relationship with their lands and forests. This concept has further evolved into United Nations (UN) instruments and standards that recognize this unique connection of indigenous peoples with their lands. The Human Rights Committee, in its General Comment No. 23, had observed that "*culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of Indigenous peoples*" (Human Rights Committee, 1994, p.40). This observation recognizes the connection between land rights and human rights. The Committee further expanded its interpretation to state that a cultural right may include "such traditional activities as fishing or hunting and the right to live in reserves protected by law" (Human Rights Council, 1994, p.40). Scholars have widely acknowledged that Indigenous peoples share "*deep, often spiritual ties with their lands*" (Wiessner, 2007, p.2). Wiessner argues that "*traditional lands should be respected or restored as a means to their physical, cultural, and spiritual survival.*" She further points out that the special indigenous people's culture is "inextricably, and often spiritually, tied to their ancestral land. This specific relationship to the land distinguishes them from other communities" (Wiessner, 2011, para.1).

The UNDRIP, adopted on September 13, 2007, represents the most extensive initiative to protect the cultures of indigenous peoples. The Declaration guarantees the rights of indigenous peoples to continue their traditional land use systems. Scholars opine that some of the rights stated in the Declaration may already form part of customary international law and that "Indigenous peoples' rights to "maintain and develop their distinct cultural identity, their spirituality, their language, and their traditional ways of life" and that "that they have a right to the lands they have traditionally owned or otherwise occupied and used" (Wiessner, 2007, p.5). As per Gilbert (2013, p.4), the concept of land rights extends beyond the conventional understanding of land rights for Indigenous peoples. It involves acknowledging that Indigenous peoples and communities have the right to use, own, and control developments on their lands. In addition, Article 27 of the ICCPR supports cultural rights as outlined in the UNDRIP.<sup>2</sup>

Article 15(1)(a) of the International Covenant on Economic and Social Rights (ICESCR) also recognizes "the right of everyone to take part in cultural life." General Comment No. 23 by the Human Rights Committee (1994) clarifies that Article 27 protects individual rights and emphasizes that states have collective obligations. Further, the HRC has established jurisprudence around the claim of cultural rights of indigenous peoples in several cases. For example, in the case of *Kitok v. Sweden*<sup>3</sup>, the HRC recognized the occupational practice of a community as a cultural right by holding that reindeer husbandry is a protected activity under Article 27 as the traditional livelihood of the Sami people. Further, Indigenous rights activists and scholars assert that shifting

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<sup>2</sup>. Article 27: In those States in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their religion, or to use their language.

<sup>3</sup>. Case No. 197/1985, UN Doc. A/43/40 (1988).

cultivation is the cultural heritage of Indigenous communities and the source of livelihoods and food security for Indigenous peoples in many Asian countries (AIPP & IWGIA, 2014, p.4).

### ***Oil palm is antithetical to customary land rights***

As per the report of the Directorate of Economics and Statistics, Mizoram (2015-2016), Mizoram is a non-record state, and most of the unirrigated lands under shifting cultivation are not permanently owned by any individual cultivators as they are treated as community lands. The government manages reserved forests, national parks, and tiger reserves. The entire forest land under traditional shifting cultivation is community land owned by the local Village Councils. As part of the local self-governance of the indigenous peoples in Mizoram, the Village Councils are established under the Lushai Hills District (Village Councils) Act, 1953, and these Village Councils allot specific plots of the community forest land within its jurisdiction to each family for one agricultural year, usually January to December. Hence, the cultivators possess the allotted land and become the holders only for the particular year they were assigned.

Mizoram is an economically backward state. As per a survey conducted in 2016, approximately 56,584 families in the state live below the poverty line. The figure constitutes 9.63 percent of the total households in the state (Khojol, 2018, para.1). The state has an agricultural economy, and farmers heavily rely on subsistence forms of agriculture and its allied activities, such as livestock. Traditionally, indigenous farmers in the state mostly grow food crops for self-sustenance, with the surplus being sold in the market. Hence, the shift to mono-crop cultivation also entails transitioning from this traditional agricultural method of cultivating food crops to a cash crop like oil palm.

Farmers interviewed have testified that over the last two decades, community lands have been increasingly converted into privately owned lands, impacting the entire community's relationship with their forests and lands. Oil palm plantations require large plots of land, and the cultivation cycle is lengthy, requiring communal land conversion. Therefore, the oil palm policy is antithetical to the customary land rights system prevalent in the state.

Concerns have been raised about the promotion of oil palm in the northeast. Former Environment Minister of India, Shri Jairam Ramesh, has alleged that the scheme has been designed to benefit only a few corporate houses. Ms. Agatha Sangma, an Indigenous Parliamentarian, warned that the focus areas of North-east India are "*biodiversity hotspots and ecologically fragile*" and oil palm plantations could alter community ownership of land and "wreak havoc on the social fabric" (Kulkarni, 2021, para.10).

### ***Exploitative and pro-business oil palm law***

The Mizoram Legislative Assembly passed the Mizoram Oil Palm (Regulation of Production & Processing) Act, 2004 on December 2, 2004. This law is prima facie exploitative.

Section 11(2) of the Act provides that the oil palm farmers of a particular area “shall supply the fresh fruit bunches from the oil palm plantations grown in that area only to the factory to whom the factory zone is attached and to none else.” Consequently, oil palm growers are restricted from selling their produce to any company other than the one designated by the government. As stated in Section 15(1) of the Act, farmers can face fines of up to INR 10,000 for violating the Act. In addition, if the violation continues, they may be subject to an additional fine of up to INR 1,000 per day for each day that the contravention continues. Hence, this law makes the indigenous peoples vulnerable to exploitation by business enterprises and the state.

### ***Lack of Free, Prior, and Informed Consent (FPIC)***

As per the MOUs, farmers must sell their Fresh Fruit Buds (FFBs) only to companies the state government has assigned to their districts at a pre-determined fixed rate. This arrangement effectively places oil palm companies in indirect control of Indigenous peoples' plantations. Moreover, there is a total absence of their consent and participation in the negotiation and signing of the MOU documents. Essentially, the state government has facilitated a new economic structure around oil palm, where companies and the government make all decisions, leaving indigenous farmers at their mercy.

This approach prioritizes the economic and business interests of these companies over the rights of indigenous communities. It indirectly allows these companies to influence and dictate farming practices and crop types on indigenous lands.

## **Findings and Analysis**

### ***Field findings and farmer testimonies***

Interviews were conducted in three villages. In Sumsilui village, approximately 40 families started oil palm plantations in 2011. However, over the years, the majority have abandoned it, and currently, only about five farmers from the initial group continue oil palm farming. These farmers primarily have larger farms and alternative income sources.

When the oil palm plantation was introduced, company representatives promoted the crop's economic benefits, distributed free saplings, and provided initial training. Farmers initially planted between 100-250 saplings each. The oil palm company, namely Ruchi Soya, purchases Fresh Fruit Buds (FFB) at INR 9.57 per kilo. Farmers interviewed in the villages reported that the state government had promised an additional subsidy of INR 2.75 per kilo, but they have yet to receive such a subsidy. The initial price in 2011 was INR 5.50 per kilo. The government and the company fix the price, and farmers have no say.

Purchases made by the company are irregular. For instance, the company's factory ceased operations from January to April 2024 due to a reported technical glitch. During this period, the

company halted all purchases, which caused financial losses for the farmers. The company has a collection center 6-10 kilometers away from these villages. Companies arrange transport vehicles, but farmers must cover the costs. Many farmers, especially those whose farms are far from main roads, have given up due to the high costs and lack of economic viability.

Farmers have no control over pricing and incur additional transportation costs. Furthermore, they are unaware of the mandatory purchase clauses required by state law. The labor-intensive nature of cultivating oil palms increases the workload for farmers. Women have minimal roles in oil palm cultivation compared to their significant roles in shifting cultivation.

A former member of the Village Council has confirmed that oil palm plantations have reduced community forest land. The mono-crop nature of the plantations has encouraged farmers to privatize the land. Additionally, farmers have reported that water sources and streams have dried up, which has further affected oil palm production due to its water-intensive nature.

In the second village, Tuikurlui, 60 out of 148 families shifted to oil palm cultivation in 2013. However, a decade later, only 30 percent of these farmers are still involved in oil palm farming. Some new farmers joined in 2017, and another batch of 40 enlisted in 2024. Farmers in this village also reported delays or pending payments from the company, which has impacted their economic stability. In Udalthana village, oil palm plantations began in 2006. One of the interviewees in the village confirmed that only three farmers are economically benefiting from oil palm cultivation. Many others have cut down their oil palm trees and switched to other crops.

### *State-company nexus shape dynamics*

Taking advantage of the pro-business Mizoram Oil Palm (Regulation of Production & Processing) Act, 2004, oil palm companies outside the region were encouraged to invest in the state. Specific companies were allotted districts to operate under this legislation. Companies and government authorities are the primary entities that have shaped the dynamics, with farmers excluded from key decision-making processes. As reported in West Kalimantan, Indonesia, the oil palm companies begin by strategically engaging with customary rights, local authorities, and community members (Rietberg & Hospes, 2018, p. 345) to navigate the complexities of land conversion and facilitate the establishment of oil palm plantations on indigenous territories. They do this by co-opting customary rights and local authorities by engaging with communities, leveraging promises of benefits, and influencing decision-making processes. This trend was also evident in the three targeted villages in Mizoram, where local leaders within the indigenous communities, including prominent landowners and the affluent, were co-opted. Furthermore, companies have engaged field workers from indigenous communities to advocate for and encourage community members to adopt oil palm cultivation. It was seen that the head of the village was often one of the first to be co-opted. Being influential, they managed to persuade more farmers to adopt oil palms.

## Conclusions

The transition from shifting cultivation to oil palm cultivation has resulted in the decline of traditional practices within the Chakma indigenous community. For instance, annual rituals such as *Al Paloni*, a sacred pre-harvest festival, are no longer observed among oil palm farmers. Traditional knowledge systems, including folk songs, folklore, farming rituals, and expertise in medicinal plants, have also been affected.

Secondly, the expansion of oil palm cultivation drives the conversion and fragmentation of communal lands into individually owned plots. This shift undermines community rights over forest lands and traditional shifting cultivation practices, leading to increased land stress and rising instances of landlessness. It is seen that influential members of indigenous communities who adopt oil palm plantations have privatized community lands, leading to the erosion of customary land rights systems. Despite all the negative impacts, companies and the government continue to push for oil palm cultivation. The companies and the government shape the narrative surrounding the benefits of oil palm production and impact community responses to the land conversion process. While the state provides the regulatory framework, the companies engage with communities and navigate the complexities of acquiring and converting land for oil palm plantations.

## Recommendations

India should ratify the International Labour Organization (ILO) Convention 169, which acknowledges the rights of indigenous and tribal peoples. It would establish a more robust framework for safeguarding the rights and claims of indigenous communities.

Secondly, India should develop a National Action Plan (NAP) on Business and Human Rights in consultation with all relevant rights holders and stakeholders, ensuring consistency with international human rights standards for Indigenous peoples.

Thirdly, the Forest Rights Act (FRA), currently not applied in Mizoram, should be extended to the state. The FRA recognizes the rights of forest-dwelling communities to land and resources, which would help protect the traditional land use practices and cultural rights of indigenous communities in Mizoram.

Finally, India should acknowledge the right of Indigenous Peoples/Scheduled Tribes to free, prior, and informed consent concerning any decisions impacting their land, culture, identity, and natural resources. Before implementing any project or initiative on Indigenous lands, Social, Environmental, and Human Rights Impact Assessments should be carried out with active involvement from the affected Indigenous communities and their representatives.



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# ASSESSING HEALTHCARE WORKFORCE IMPACTS ON THE RIGHT TO HEALTH AMID THE POLITICAL CRISIS IN SOUTHEAST MYANMAR

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## Abstract

Myanmar, with its long-lasting civil war spanning over 75 years between the central military and multiple ethnic armed groups, has fostered two parallel health systems: one mainstream system managed by the Ministry of Health (MOH) and another underground system operated by ethnic stakeholders. Aligned with global agendas advocating for universal healthcare and the national peace processes of Myanmar, non-government organisations (NGOs) and international aid sectors have strived to integrate these parallel systems through enhanced negotiation and collaboration for over ten years. However, after the 2021 military takeover, armed conflicts escalated and spread across the country. The political unrest led to the collapse of the central government health system, burdened the ethnic health system, and adversely affected health service providers. This study assessed the right to health of civilians in the context of changing healthcare workforces in southeast Myanmar. The research uses qualitative methods, including key informant interviews and focus group discussions with 25 informants, including medical doctors, community health workers, health entity leaders, and international aid representatives, and data analysis from health organisation reports and media. The findings reveal that significant changes in the workforce of health service providers occurred due to their participation in the uprising and rejection of the seizure of power, demonstrated by their refusal to continue working for the MOH controlled by the de facto regime, compounded by various security threats. This human resource dynamic created significant barriers to accessing healthcare for civilians across the country, with particularly severe impacts in conflict-affected areas in southeast Myanmar. On the other hand, the ethnic health systems took this situation as an opportunity to enhance their health services by receiving healthcare staff displaced to their administered areas in southeast Myanmar due to security concerns.

Keywords: Access to Health, Armed Conflict, Myanmar

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## **Introduction**

The global health community acknowledges that violent conflicts are a threatening factor that can leave conflict-affected communities behind in their health opportunities. In 2015, the United Nations (UN) Assembly prioritised the right to health for people in conflict zones as one of the Sustainable Development Goals to be achieved by 2030.

Myanmar, with the world's longest civil war spanning over 75 years between the central military and multiple ethnic armed groups, has fostered two parallel health systems: one mainstream system managed by the Ministry of Health (MOH) and another underground system operated by ethnic stakeholders. Aligned with global health agendas advocating for Universal Health Coverage (UHC), NGOs and international aid agencies strived to integrate these parallel systems through enhanced negotiation and collaboration for over ten years. In 2016, MOH adopted a 5-year national health plan to implement according to UHC. Consequently, the union government started considering how to integrate and acknowledge parallel health systems of armed conflict areas in the national health plan (Davis & Jolliffe, 2016). However, after the military seized power in 2021, armed conflicts escalated and spread across the country. The political unrest led to the collapse of the central government health system, burdened the ethnic health system, and adversely affected the healthcare workforce.

Due to the sudden political change, the healthcare system deteriorated nationwide, including in conflict areas. Many Myanmar civil servants, including health staff, have discontinued their work and cooperation to show their refusal to recognise the new administration. As a result, the health service and other functions of the MOH deteriorated due to inadequate human resources (The Irrawaddy, 2021). Numerous healthcare staff were detained, displaced, injured, or killed during this period of political tension. In southeast Myanmar, the operations of many hospitals and health departments ceased as healthcare workers involved in political opposition fled to areas controlled by an ethnic armed group. (Karen Human Rights Group, 2021). Therefore, during the political crisis in Myanmar, civilians have been suffering from a loss of their right to health, particularly in conflict areas such as southeast Myanmar. Understanding the current healthcare landscape and its workforce dynamics within the new political context of the 2021 uprising in Myanmar is crucial. This study aims to address this need, providing insights to assist health actors in developing new strategies to promote the right to health through realistic and feasible solutions.

## **Objectives of the Study**

The objective of the study is to assess the dynamics of the healthcare workforce and its impact on the right to health in the context of escalating armed conflict in southeast Myanmar following the military regime takeover in 2021.

## Methodology

This study is part of a border thesis project of the author for the Institute of Human Rights and Peace, Mahidol University. A thesis proposal defence committee with four internal and external panels of Mahidol University has already reviewed and approved the overall proposed methodology of the study.

This descriptive research employs a qualitative approach to thoroughly understand the healthcare workforce dynamics in southeast Myanmar. The study validates its findings through the collection and analysis of primary data. The author conducted key informant interviews (KIIs) to gather detailed insights and personal experiences related to the healthcare workforce and access to healthcare services in conflict-affected areas. Additionally, the author facilitated group discussions (FGDs) with health service providers to capture a range of their perspectives and to explore their experiences as well as divergent views.

The study utilised a purposive random sampling technique to select 30 participants who are intensively involved in various roles within the healthcare sector of Karen State, southeast Myanmar. These include healthcare providers, ethnic health institutes, civil society organisations (CSOs), and international aid organisations operating in the region. The researcher conducted interviews with participants based in Myanmar and Thailand, both in person and remotely, during January and February 2023. The table below provides an overview of the study respondents.

| Group No. | Types of respondents   | Methods    | Numbers   |
|-----------|--|------------|-----------|
| 1         | Healthcare providers: medical doctors, nurses and community health workers who are delivering health services to conflict-affected communities | KIIs, FGDs | 20        |
| 2         | Ethnic health institutes, which serve healthcare to conflict-affected community  | KIIs       | 4         |
| 3         | CSOs working for healthcare in conflict-affected communities   | KIIs       | 2         |
| 4         | International aid: International NGOs, Donors and UN agencies  | KIIs       | 4         |
|           | <b>Total respondents</b>   |            | <b>30</b> |

Table 1: Overview of the Study Respondents

## Ethical Considerations

As mentioned, the findings presented at this conference are part of an ongoing thesis project. The researcher submitted the thesis proposal and ethical considerations to the Institutional Review Board of Mahidol University, obtained its approval, and followed the ethical guidance provided by both the Institutional Review Board and the Institute of Human Rights and Peace, Mahidol University. This study firmly upholds the following principles and ethics to ensure an ethical process that maintains the quality and reliability of the findings.

- **Rights-based approach:** From the start to the end of the process, this study's foremost commitment lies in upholding human rights as the highest principle. These include the right to self-determination, dignity, privacy and security. All communication with respondents was truthful and transparent, with full respect for their identities and beliefs.
- **Informed and voluntary participation:** This study ensures that respondents understand its purpose, risks and benefits. It invites respondents to participate voluntarily by signing an informed consent form and informing them of their right to withdraw their responses at any time during the process.
- **Confidentiality and Data Security:** This study ensures strict confidentiality and privacy for participants by allowing anonymous participation and using a coding system to anonymise data. Only the researcher can access to the collected data and participant identities, which are stored securely on a password-protected hard drive. Information obtained are solely used for research purposes, and the report presented findings without disclosing any participant or organisation.
- **Do-No-Harm principles:** As this study focuses on conflict-sensitive contexts, the researcher carefully followed the "do-no-harm" principle and avoided any direct or indirect risks, not only to respondents but also to the local community in the study area. Continuous risk assessments and responsive management were maintained throughout the research process. This study let the participants choose their preferred locations for interviews and secure, encrypted digital platforms to facilitate comfortable and safe participation.

### **Limitations of the Study**

The following limitations underscore the need for cautious interpretation of findings and highlight areas for future research to provide a more comprehensive understanding of healthcare access and the right to health in conflict-affected regions of southeast Myanmar.

- **Geographical Scope:** This study focuses on the armed conflict in southeast Myanmar: Karen State and the Thailand-Karen border. This scope restricts the generalizability of findings to other states, regions, or diverse conflict contexts within the country.
- **Perspective on Health Landscape:** This study primarily examines the status of access to health through the lens of healthcare service providers. This may not capture the entire spectrum of community perspectives and experiences regarding healthcare access and quality in conflict-affected areas.
- **Focus on Human Resources:** While crucial, the emphasis on healthcare workforce impacts due to political unrest may overlook other significant factors influencing the right to health, such as infrastructure damage, shortages of medical supplies, and changes in healthcare governance structures. As mentioned, this study presents preliminary findings from a human resources perspective. A comprehensive analysis of other factors and challenges in healthcare will be included in the full thesis of the author.
- **Timeline of the study:** The two-year timeframe (February 2021 to February 2023) will not capture developments or changes in the healthcare workforce and service delivery dynamics beyond this timeframe, especially in rapidly evolving conflict and political environments.

## The Right to Health Framework

In 1946, the World Health Organization's (WHO) Constitution defined health as overall physical, mental, and social well-being, rather than merely the absence of illness. It protected the right to health as a universal human entitlement, guaranteeing access to the highest achievable standard of health without discrimination based on ethnicity, social status, or beliefs (WHO, 1946). The Universal Declaration of Human Rights in 1948 recognised health as integral to the right to an adequate standard of living in Article 25 (UN, 1948). In 1966, the International Covenant on Economic, Social, and Cultural Rights expanded the Universal Declaration of Human Rights by emphasising the right to health and outlining state responsibilities to achieve it. (UN, 1966).

According to the Office of the United Nations High Commissioner for Human Rights, the right to health is a comprehensive concept that includes access to medical care, availability of medical services (including human resources, facilities, and other medical resources), and underlying determinant factors such as water and sanitation, food security, occupational health and safety, and access to health education. In 2000, the UN Committee on Economic, Social and Cultural Rights (CESCR) released a General Comment on the right to health, which described the four aspects. This framework includes availability, accessibility, acceptability, and quality (UN OHCHR, 2000).

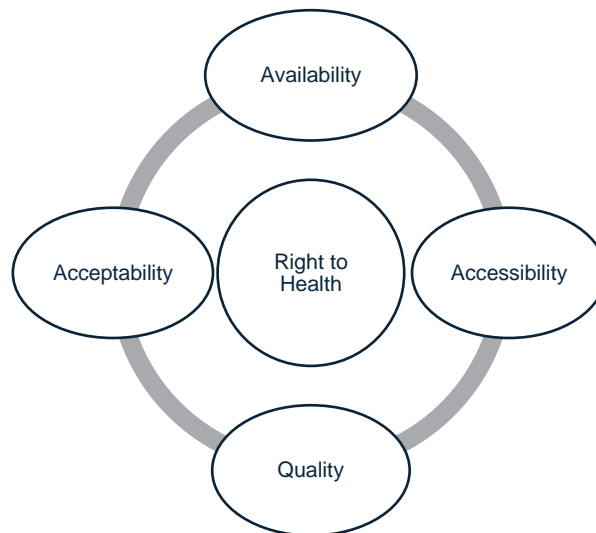


Figure 1: The Right to Health Framework of UN CESCR (UN OHCHR, 2000)

According to CESCR, this study denotes the four aspects of the right to health as follows:

- **Availability:** The presence and readiness of healthcare services and facilities, including essential elements like water, sanitation, hospitals, clinics, trained medical personnel, and essential drugs.
- **Accessibility:** The ability to reach and attain healthcare services and health-related information physically, emotionally, and financially by everyone without barriers due to their identities, status or beliefs.

- **Acceptability:** The appropriateness of health facilities, goods, and services, ensuring they respect medical ethics and are sensitive to gender, culture, vulnerability, and community values.
- **Quality:** High standards of health services, skilled medical personnel, health facilities and medical commodities, including approved drugs and equipment (UN OHCHR, 2000).

### **Conceptual Framework**

A study by the London School of Hygiene and Tropical Medicine examined health equity in fragile states by looking at social determinants of health (Bornemisza et al., 2007). In contrast, a report from the International Peace Institute (IPI) on the right to health in conflict areas report on health in conflict areas identifies challenges with accessing medical care, healthcare resources, staffing, and health policy (Debarre, 2018). This study emphasises that exploring the impact of healthcare on human resources on the right to health, as analysed in the IPI report, is highly relevant in the context of southeast Myanmar. Therefore, the conceptual framework of this study draws upon the approach used in the IPI report.

The following diagram illustrates how the human resource factor in the health sector affects people's right to health of people, especially in southeast Myanmar. The 2021 regime change in Myanmar led to significant political unrest and accelerated armed conflicts, which in turn impacted the healthcare workforce dynamics in both central and ethnic health systems. The changes occurred as healthcare workers participated in opposition activities and were displaced due to security concerns. Consequently, this situation influenced the main aspects of healthcare: availability, accessibility, acceptability, and quality.



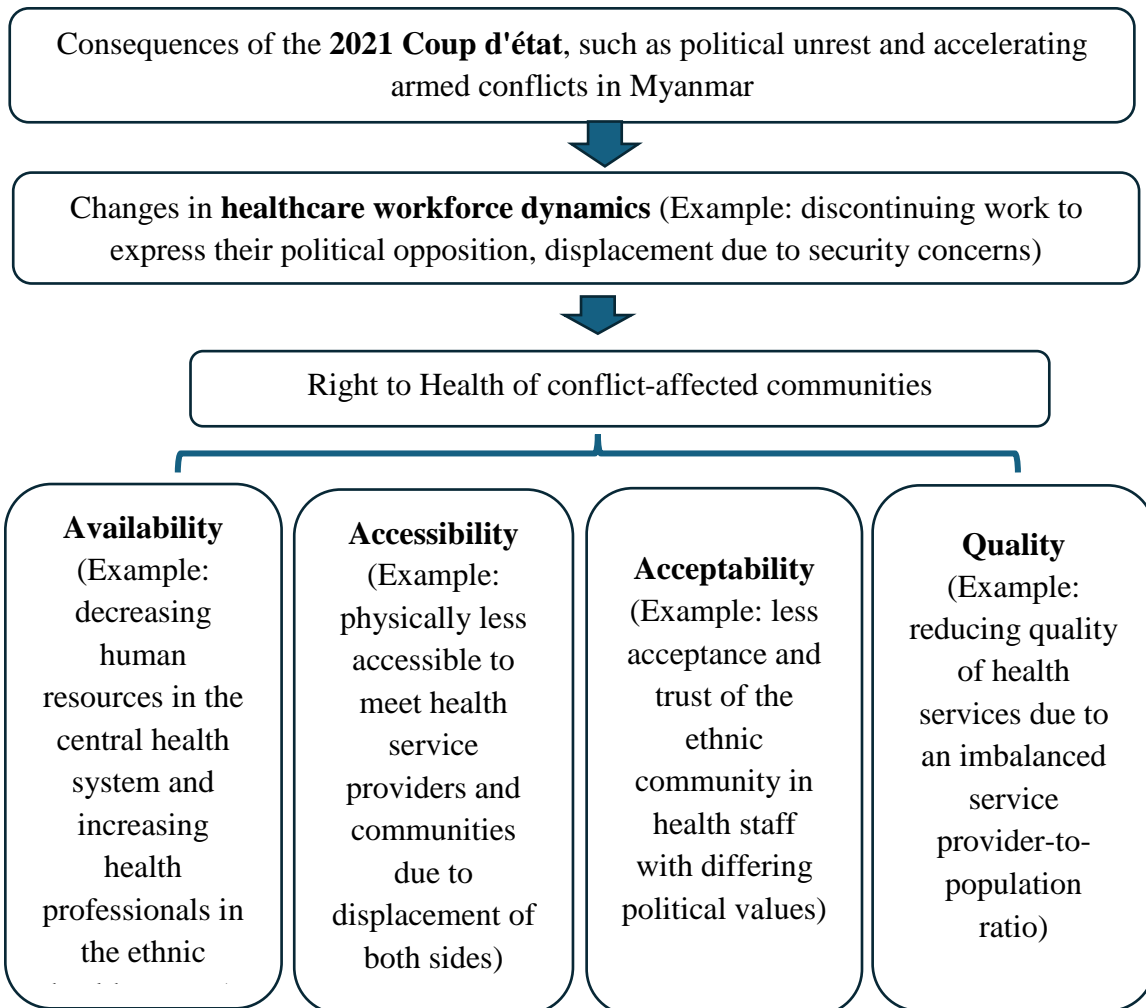


Figure 2: The Conceptual Framework of the Study

### Key Insights: Healthcare Workforce Dynamics and Its Impact on the Right to Access Healthcare in Southeast Myanmar

The findings discussed here are based on analysing the primary data collected during this study. They present how the dynamics of the healthcare workforce impact the right to health, especially in the context of the political challenges following the military takeover. Significant changes have occurred among the health service providers of both central and ethnic health systems within the first two years of the political crisis in Myanmar. These changes have led to the deterioration of the healthcare system nationwide, including in armed conflict areas in southeast Myanmar. This paper discusses the consequences of these changes in terms of the four aspects of the right to health: availability of health resources, accessibility to health services, acceptability by communities, and quality of healthcare.

## **Availability of the Health Resources**

All respondents in this study noted that many healthcare workers had discontinued their civil service to express their opposition to the de facto regime. Consequently, this mass political participation disrupted the quantity of health staff in the central health system. The central health system experienced challenges in retaining staff, which affected its ability to maintain constant availability and functionality of healthcare services. Additionally, health professional respondents emphasised the loss of human resources in the health sector through career cessation, displacement, injury, death, and arrests amid political unrest and battles.

Conversely, all respondents mentioned an increase in the number of health professionals in ethnic health mechanisms. Some medical professionals relocated to areas controlled by armed groups due to security concerns, enabling ethnic health systems to expand their services in ethnic regions. Previously, the ethnic system operated mainly with community health workers called backpackers, who provided primary healthcare. In 2021, many medical doctors, including specialists, were displaced to areas controlled by ethnic armed groups. Therefore, ethnic health providers could upgrade their services from primary to secondary and tertiary healthcare, such as orthopaedics and psychiatry. Some medical doctors participating in this study stated they were taking technical or management positions in clinical and public health sectors within ethnic health systems.

However, ethnic health providers also highlighted several challenges. They noted that despite the increase in health professionals, the population of the communities they served suddenly grew, while MOH outreach areas narrowed, and civilian displacement increased during the conflict. Therefore, although there was a rise in the number of medical professionals within the ethnic health system, it did not result in improved availability of healthcare services due to broader systemic challenges and an impaired service provider-population ratio.

## **Accessibility to Health Services**

Formerly, mixed administrative areas in the southeast region were controlled by the Union military and ethnic armed groups, with health services provided by both the MOH and ethnic health institutes. Ethnic health providers noted that the administration zones became more clearly defined after the overthrow, resulting in areas with no dual administration or healthcare mechanisms. They reported having to close or relocate their clinics due to security threats, reducing community accessibility and disruptions in continuous medical care. Similarly, many rural health centres of the central health system are also not functioning in conflict areas. The practice of referring patients from ethnic health providers to the central health system has weakened, although they continue to refer patients needing advanced medical care to urban hospitals.

According to health workers, the escalating conflicts following the coup have caused frequent displacement of both healthcare providers and local communities, making timely access to healthcare more challenging. Due to unsafe transportation, it has become increasingly difficult

for communities to seek healthcare at static clinics operated by central or ethnic health systems. Backpackers, who typically provide mobile healthcare to hard-to-reach areas, have also found their ability to reach out limited due to warfare, even though they continue to deliver health services wherever they can.

International aid actors have highlighted a significant gap in immunisation for children under ten, which was implemented by the central government with support from WHO. Immunisation coverage has drastically declined, coinciding with increasingly limited outreach by midwives. In conflict settings, ethnic health systems face significant challenges in strategically replacing this crucial intervention.

### **Acceptability of the Communities**

Myanmar is a multi-ethnic nation overwhelmed by ethnic conflicts. Historically, minority ethnic communities have felt suppressed by the majority Burman population. International aid actors observed that social cohesion improved when Burman medical staff joined ethnic health systems during the rebellion. Both Burman and ethnic health providers claimed that Burman health professionals were gaining a better understanding and empathy for their ethnic communities, thereby enhancing the acceptability of health services among minority groups. This is crucial for effective healthcare delivery in southeast Myanmar's political and cultural contexts.

The ethnic respondents noted that during the prolonged conflict. In contrast, minority ethnic groups viewed the union government as representing the majority Burman; the ethnic health system was seen as being closer to their own communities. As a result, underserved ethnic communities preferred the ethnic health workers over the central health system, even before the political changes in 2021. This preference maintained high acceptability for Karen ethnic health systems, as Karen communities felt a stronger connection and alignment with health providers from their ethnic group in the southeastern region.

Conversely, according to respondents from CSOs and NGOs, political tensions have created divisions between health staff of the central health system and local communities based on political opinions. Some community members saw MOH health staff who kept working to support the de facto regime instead of serving them, which led to trust issues and affected community acceptance.

### **Quality of Healthcare**

Ethnic health institutes reflected that the quality of services decreased due to an imbalanced provider-to-population ratio in both health systems. With fewer human resources in the central system, the remaining staff were overburdened, leading to burnout and reduced quality of care. As discussed in terms of availability, the ethnic health system, though having better human resources, often faced challenges in maintaining high standards of care due to limited resources, ongoing conflict-related disruptions, and sudden influxes of displaced populations.

On the other hand, ethnic health institutes disclosed that they were improving the management of healthcare systems and training their community health workers by learning from displaced medical professionals, including specialists in tertiary medical care. They viewed the arrival of these displaced medical professionals as an opportunity to learn advanced medical care, which they plan to sustain even after these professionals return.

## **Conclusion**

In conclusion, this study underscores the profound impact of recent political turmoil since 2021 on the right to health in southeast Myanmar. The political unrest has led to significant shifts in both central and ethnic health systems, driven by factors such as the political involvement of healthcare workers, displacement due to unsafe conditions, and logistical challenges in conflict zones. Despite these challenges, ethnic health systems in southeast Myanmar have experienced an influx of medical professionals, which has enhanced their ability to provide comprehensive care, including tertiary services. This development has allowed the ethnic health system to advance its skills in clinical and public health.

However, systemic issues persist that affect the right to health. Limited outreach by MOH and ongoing population displacement continue to hinder healthcare availability and access. Although integrating Burman medical staff into ethnic health systems has improved social cohesion, trust issues between health staff of de facto administration and ethnic communities remain. These factors collectively impact the availability, accessibility, acceptability, and quality of healthcare services, thereby affecting the population's overall right to health.

Understanding these dynamics is crucial for developing effective strategies to protect and promote the right to healthcare, even amidst political and armed conflict. Addressing these challenges is essential for ensuring that all individuals can exercise their right to health in the context of ongoing instability and conflict.

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# ADDRESSING SEXUAL MISCONDUCT CASES WITHIN THE UNIVERSITY: A CASE STUDY FROM EAST JAVA, INDONESIA

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## Abstract

Sexual misconduct within educational institutions in Indonesia encompasses various forms of harassment, assault, and discrimination. This paper presents a case study addressing sexual misconduct within a university setting in East Java, Indonesia, and draws upon qualitative research methods, including in-depth interviews. Given the severity of sexual misconduct on university campuses, this study aims to investigate the management processes and barriers in handling such cases. Using the Task Force Committee as a case study, the research seeks to understand challenges and identify interventions to promote a supportive environment for victims. Understanding these barriers is crucial for creating effective interventions and addressing the widespread problem of sexual misconduct on campuses. It reveals complex verbal harassment, unwanted advances, coercion, and assault impacting female students. Gender norms, power relations, the university reputation, and institutional hierarchies significantly influence the perpetuation and handling of such incidents. Despite the existence of policies and mechanisms for addressing sexual misconduct, the challenges related to awareness, reporting mechanisms, and accountability persist. Furthermore, it identifies gaps in the existing framework and proposes recommendations for enhancing prevention, response, and support mechanisms within the university context. These include comprehensive awareness campaigns, improved reporting mechanisms, enhanced training for Task Forces, faculties, and staff members, and establishing support services for survivors.

**Keywords:** Sexual Misconduct, Task Forces, Challenges, University, Power Relations, Gender Norms

## Introduction

The recent rise in sexual misconduct that has occurred in Indonesian universities shows that even educated people can lose their minds and commit acts of harassment against other people (Simanjuntak & Isbah, 2022). There have been many cases of sexual misconduct revealed to the public since 2019, or it could even be called a pandemic of sexual violence (BBC News Indonesia, 2021). Cases of sexual misconduct at Indonesian universities that were revealed to national media

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which mostly occurred in big cities such as Yogyakarta, Bandung, Surabaya, Malang, Riau, and Jakarta. Most of these cases happen to female students, and the things they experience vary, from holding hands, and kissing cheeks to touching women and vital parts (BBC News Indonesia, 2021; Fawaidi, 2021). The student who experienced sexual misconduct tried to seek justice by reporting the person concerned from the department level to the faculty level. However, there were many individuals who considered this matter to be something trivial, did not take action seriously, and only resolved it with an apology.

However, the reality mechanism on the ground is sometimes different. In several cases of sexual violence that occurred in universities, there were two forms of response from campus stakeholders in handling the case. First, attempt to maintain the good name of the campus by protecting the perpetrator, not processing the victim, and reporting or deliberately covering up the case so that it is not known to outside parties (Nikmatullah, 2020). The campus did not respond well due to the absence or lack of institutional commitment to cases of sexual violence. In some cases, the victim is blamed for allowing the perpetrator to act. However, the victim is told to keep quiet. The perpetrator avoids it for various reasons, such as misunderstanding, distorting facts, and cornering the victim.

Using the Task Force Committee as a case study, this research aims to identify the mechanisms employed by the assigned organization within a university, referred to as the 'Task Force Committee,' to handle cases of sexual misconduct on campus. Furthermore, the research explores the task force committee's key efforts and challenges in carrying out their responsibilities.

## **Methodology**

The study employed a qualitative descriptive methodology to discern themes of power imbalance, gender, and patriarchal norms on the protection mechanism for handling sexual misconduct at a university. The data was collected from 8<sup>th</sup> May to 15<sup>th</sup> May 2024. 13 respondents were involved in this research. The researcher used the snowball method. The benefit of qualitative research is gathering rich and complex data information as well as listening to voices and tales based on the experiences of the Task Force in handling sexual misconduct, university executive members, campus women's organizations, executive campus organizations, and NGOs who deal with sexual misconduct. One of the public universities in Malang, East Java, has an established and optimized task force dedicated to addressing sexual misconduct. A case study approach is used to describe the challenges of the Task Force and the struggles of implementing an effective mechanism for handling sexual misconduct within the university. With their permission, the comments or opinions of the respondents were recorded in audio format and included in the study's conclusions. The triangulation involves using three sources of information: In-depth interviews, Key Informant interviews, and the literature review, all used to improve the quality of research and researchers' understanding of the data collected.

## Conceptual Framework

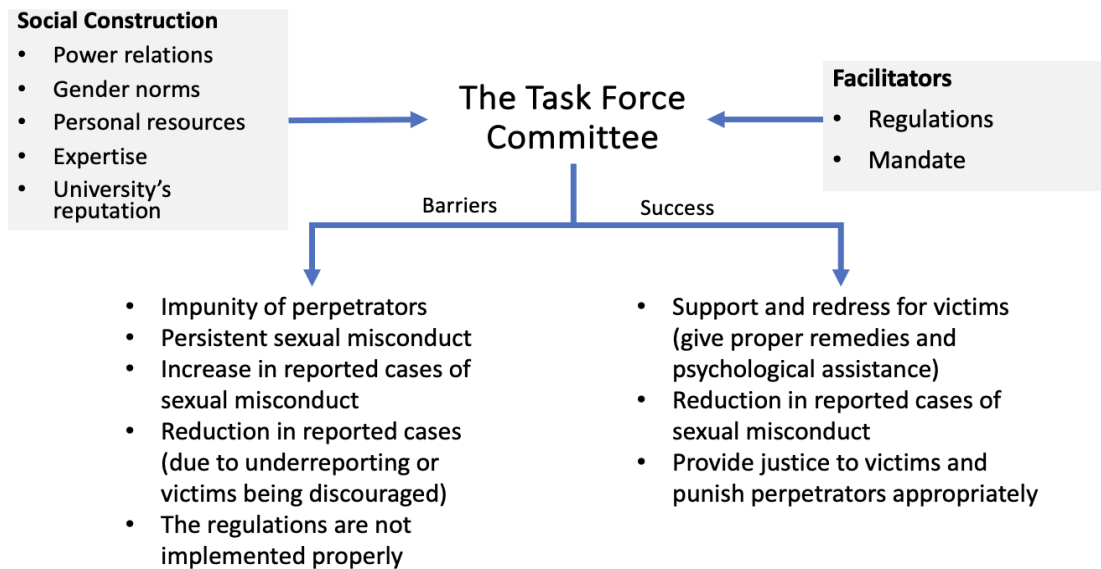


Figure 1. Conceptual Framework

The conceptual framework of this research unfolds at a Public University and examines the role of task forces in handling cases of sexual misconduct. The task force operates within a framework of established regulations and mandates, serving as a facilitator guiding its actions. These regulatory elements provide a structured basis for addressing sexual misconduct and form procedural aspects of the task force's intervention. In addition, this research identifies social constructs that can potentially hinder the effectiveness of the task force. One of the most prominent social constructions is the power relationship between the task force and university executives. Besides, there are gender norms where patriarchal norms are adopted within the university. In structural positions, the Task Force is dominated by women and university executive members are dominated by men. Apart from that, this research will also investigate barriers where perpetrators become impunity because of the unfairness of punishment. Power relations, persistence in dealing with sexual misconduct, and decreasing the number of reported cases due to underreporting of cases or discouraged victims are some of the ways that campus management is working to end sexual misconduct.

## Results and Discussion

### The Existing Mechanism of Sexual Misconduct Cases by the Task Force

The Task Force at one university consists of a multidisciplinary team that includes faculty members, administrative staff, professional counselors, medical doctors, and legal advisors. The roles of each member are clearly defined to ensure the approach in handling sexual misconduct



cases. The structured composition allows for the comprehensive handling of incidents, ensuring that all legal, emotional, and academic aspects are addressed. Members of the Task Force undergo ongoing professional development, which includes training in trauma care, the legal framework related to sexual misconduct, and best practices in investigating existing procedures. Thus, this ongoing education requires the Task Force equipped with the latest knowledge and skills to handle cases effectively.

Besides the Task Force, handling and prevention of sexual misconduct cases that occur to university residents are also carried out and coordinated by ULTKSP (Integrated Service Unit for Sexual Misconduct and Bullying) in each faculty of the university selected.

**The Task Force must handle reports of Sexual Misconduct through the following mechanisms:**

- a. Standard Operating Procedures for Receiving Reports
- b. Standard Operating Procedures for Examining and Identifying Facts on Sexual Misconduct
- c. Standard Operating Procedures for Preparing Conclusions and Recommendations
- d. Standard Operating Procedures for Enforcement of Administrative Sanctions
- e. Standard Operating Procedures for Assistance and Protection

**Prevention and Awareness Mechanism Program**

The University Task Force held a series of educational workshops and seminars aimed at educating students, lecturers, and staff about sexual violence. One of the sessions was for new students who wanted to enroll in this university. The new students were given a "Pocketbook containing guidelines for preventing and handling sexual misconduct and bullying" and presented to several experts who discussed in depth the prevention of sexual misconduct on campus. The Task Force also created a Psychological First Aid Guidebook for students who wanted to do counseling, especially for victims of sexual misconduct.

In addition, the task force also collaborated with student organizations to increase student awareness that reporting cases of sexual misconduct is mandatory and not to normalize the culture of silence when becoming a victim of sexual misconduct. Student organizations, especially those dealing with women's issues, created a complaint service program called "*Lekas Pulih platform*" to make it easier for students who want to report directly to peer students. Furthermore, the organization processes the report to the central task force. In addition, the task force also coordinated with organizations in each faculty of the executive organization, especially the women's division, to hold several seminars, talk shows, and workshops on preventing sexual misconduct.

According to an interview with the Women's Campus Organization, *“From the university itself, since the 2021 orientation, they have provided education and awareness of the existence of the task force to handle cases of sexual misconduct, but the efforts to raise awareness about cases of sexual misconduct are still lacking. For example, they were only given banners about the resolution of sexual misconduct, then reported to the task force and done. The task force resolved it for the victims and perpetrators, but the process is still long to get justice”* (personal communication, May 8, 2024).

Additionally, the other sessions covered a variety of topics critical to understanding and preventing sexual misconduct, including defining consent, identifying different forms of misconduct, recognizing coercive behavior, and legal considerations. The workshops used interactive formats such as case studies and group discussions to engage participants in learning. The task force created the campaign through *Instagram, Facebook, word of mouth*, direct workshops, and webinars. These events not only educate but also foster community dialogue and solidarity in addressing sexual misconduct. The task force also has a program called “Psychological First Aid” to help victims get primary trauma healing assistance from a professional counselor. Recognizing the importance of collaboration, the Task Force at the university engages in partnerships with local NGOs at Malang, East Java, Indonesia. Community organizations within the university specialize in gender-based violence prevention and victim support.

## **The Challenges Encountered by the Task Force in Protecting Women from Sexual Misconduct**

### **Reporting Barriers**

Fear of retaliation is a significant barrier to reporting sexual abuse and is fundamentally rooted in the violation of human rights principles. According to the Universal Declaration of Human Rights (UDHR), every individual has the right to life, liberty, and security (Article 3) and the right to seek justice without fear of reprisal (Article 8).

According to an interview with the Student Executive Organization, *“Most of them, if they are victims, are mostly afraid to report because my friend who is a victim only dared to report after being supported by her friends. It was also after many commitments from friends to protect the victim's identity. So, there are many cases of sexual misconduct, but maybe only a few are investigated because the victims also do not agree to have their cases escalated”* (personal communication, May 10, 2024).

Consider this case study of a victim at the university who only came forward after receiving overwhelming support from her peers. Her peers committed to protecting her identity

and offering reassurance, which gave her the courage to come forward. This case illustrates the importance of supportive social networks in empowering victims to report sexual misconduct. The stigma surrounding sexual misconduct often leads to victim-blaming attitudes, where the victim's behavior, appearance, or actions are scrutinized and criticized. Such attitudes perpetuate a culture of silence and shame, making it exceedingly difficult for victims to report their experiences. The fear of being judged, ostracized, or not believed can be paralyzing, leading many victims to refrain from seeking justice or support (Ahrens et al., 2007; Orchowski et al., 2013). The role of friends and peers in supporting victims is crucial, as their support can be key in the decision to report an incident. Without this support, many cases may go unreported or be significantly delayed.

According to an interview with Female Witnesses, *“The handling was slow. At that time, the Task Force also told me that ULTKSP staff handled many cases. Therefore, they also apologized for the long delay in handling the issue. Assisting the victim is relatively fast. After being reported, the task force can provide a kind of consultation to the victim via Zoom that week. However, for direct handling from the Dean and how to handle the perpetrator, it takes quite a long time, several weeks or maybe up to a month for the perpetrator to be treated with the sanctions”* (personal communication, May 9, 2024).

These procedures are designed to ensure thoroughness and compliance with legal and institutional guidelines, but can inadvertently cause delays. ULTKSP's recognition of slow handling due to the large number of cases suggests the need to review and perhaps simplify these bureaucratic processes to reduce delays. The university deals with a large case, further straining its resources. As noted by ULTKSP, having many cases handled simultaneously can slow down the process. It is supported by findings from the witnesses and a student organization, which revealed that this university faced a significant backlog of cases, exacerbated by a lack of standard practices and inadequate staffing (Times Higher Education, 2022).

In addition, high case volumes can overwhelm available resources, slowing down the process. As reported by the university task force, the number of cases can exceed the capacity of the staff assigned to handle them. The complexity and sensitivity of sexual misconduct cases require thorough investigations, which can take longer. The fair and impartial investigative process conducted by the task force means that the university must follow meticulous procedures to ensure justice for both victims and the accused. It involves several stages, including gathering evidence, interviewing witnesses and victims, and making recommendations to the vice president of student affairs and code of conduct to impose penalties and ensure compliance with legal and institutional policies. The detailed and thorough nature of the investigation contributes to a lengthy turnaround time.

According to human rights principles and university policies, upholding the rights of victims and defendants throughout the investigation is essential. According to task force

interviews, this requires a careful and methodical approach to avoid potential bias and ensure that the outcome is fair. The requirements for due process can extend the time frame of an investigation, as each step must be carefully documented and reviewed. The handling of cases by ULTKSP, including cases described where it took about a month to make a decision, illustrates the careful balance required to ensure fairness, often resulting in longer processing times.

Furthermore, the Task Force offers an anonymous reporting option, which empowers victims to report violations without revealing their identities. This mechanism is important in environments with a significant power imbalance between victims and perpetrators, such as students and faculty members. Anonymous reporting not only facilitates the collection of accurate data on the prevalence of sexual misconduct. However, the Task Force also reinforces the university's commitment to upholding the human rights of its community members by providing a safe pathway to seek justice.

Despite existing mechanisms, there is often a lack of awareness among students and staff about how to report incidents and the role of the task force. Lack of awareness about reporting mechanisms and the role of the Task Force is a barrier to accessing justice and protection. The Task Force has intensified its outreach efforts. The efforts include comprehensive orientation sessions for new students, which provide detailed information about sexual misconduct policies, reporting mechanisms, and available support services such as Psychological First Aid and legal support. Orientation sessions are critical to integrating new students into the university's respectful and safe culture from the beginning of their academic journey.

### **Resource Limitations**

One of the primary challenges faced by university sexual misconduct task force is limited financial and staffing resources. These constraints have a significant impact on the effectiveness of their operations. Without adequate funding, it is difficult to recruit sufficient staff or provide the necessary training, which is critical to effectively managing and investigating sexual harassment complaints. The university has already sought additional funding from government grants to address these challenges. However, grants from the government only recruit 15 task forces. The grants were not enough for 15 faculties. As mentioned earlier, handling the cases took a long time. Obtaining external funding helps ease the financial burden and allows the task force to expand its capabilities. For example, government grants can provide targeted funding for specific initiatives such as awareness campaigns, training programs, or enhanced support services for victims (Richards et al., 2019; Newins et al., 2018).

The availability of sufficient resources is crucial for providing effective and supportive services. Studies have shown that under-resourced offices struggle to manage the demand for their services, leading to delays in processing cases and inadequate support for victims. For example, a

study by the Association of American Universities (AAU) found that many institutions face challenges in providing timely and effective responses to sexual misconduct cases due to limited resources (Cantor et al., 2015). To improve services, it is recommended that the university increase funding and staffing for sexual misconduct task forces. This can be accomplished through strategic planning and advocacy for increased budget allocations. Additionally, the university should actively seek partnerships with external organizations to complement its internal resources and provide a more comprehensive support system for victims (Wood et al., 2017; Amar et al., 2014).

### **Institutional Challenges**

The university often operates within complex administrative structures characterized by multiple layers of authority and established protocols (Keashly & Neuman, 2010; DeSantis, 2013). This complexity can lead to *bureaucratic inertia*, where institutions resist change (Cantalupo, 2011; Mendoza et al., 2012). Bureaucratic inertia is particularly problematic when it comes to addressing issues such as sexual misconduct, which require swift and decisive action. Resistance arises because implementing new policies or procedures requires navigating administrative approvals and consultations.

According to an interview with the Student Executive organization, *“A long time ago, from 2022-2023, had become a long debate because there were no specific implementing regulations, and also the technicalities were not clear about the regulation, but for the beginning of 2023, I saw that law faculty was already progressive”* (personal communication, May 10, 2024).

Each stakeholder within the university, from department heads to the board of trustees, has different opinions and priorities, making it difficult to reach consensus. This can result in a protracted decision-making process that delays the implementation of needed reforms. For example, introducing a new reporting system for sexual harassment may require approval from the university’s legal department, student affairs office, academic senate, and executive leadership. Each of these entities has its concerns and requirements, leading to extensive discussions and potential compromises that can undermine the effectiveness of proposed reforms. Furthermore, established protocols can be deeply entrenched, with administrators and faculty accustomed to “the way things have always been done.” Resistance to these changes is often rooted in fear of the unknown, the potential for additional workload, or concerns about the implications of more transparently acknowledging and addressing sexual misconduct.

To address bureaucratic inertia, the Task Force at the university needs to use strategic measures such as forming alliances with key stakeholders within the university who can champion the cause. Influential figures such as respected faculty members, administrators, and student leaders can advocate for sexual misconduct and help overcome bureaucratic hurdles. Additionally, they can propose incremental changes that are easier to implement, such as standardizing rules

across all faculties, and build momentum for more extensive reforms. It can help reduce resistance by gradually demonstrating the feasibility and benefits of new policies. In addition, they can provide them with the knowledge and skills needed to implement new policies effectively.

## **Cultural and Attitude Challenges**

Cultural norms around gender roles and sexuality perpetuate harmful stereotypes and biases. In Indonesia, traditional views dictate that men should be dominant and women should be submissive, or that sexual misconduct should be kept private (Blackburn, 2004; Nilan, 2009). That attitude can lead to victim blaming, where victims of sexual misconduct are held responsible for the incident (Parker, 2008).

An interview with one of the Women's Campus Organization members showed, *"My friends and I played truth or dare with my friends." The perpetrator asked, "How many people have you had sex with at the ASEAN Summit?". At that time, I started shaking when my friends said, what the heck is that? They also know that it is harassment. I also answered, "Am I cheap?". That was out of nowhere because, previously, there were no sensual topics. But then suddenly he asked me that; some people also normalize rape jokes" (personal communication, May 12, 2024).*

Rape jokes are a damaging element of social interactions that trivialize sexual misconduct and perpetuate harmful cultural norms and attitudes toward gender and sexuality (Ford, 2014). Those jokes cause significant harm to individuals and contribute to an environment where sexual misconduct is normalized and tolerated (Bleecker & Murnen, 2005; Romero-Sánchez et al., 2010). The anonymous testimony of a woman at the university clearly shows how these jokes impact individuals and highlights a broader cultural challenge that needs to be addressed. Rape jokes can make sexual misconduct seem like a trivial matter. When people hear rape jokes, they begin to view them as less severe and more acceptable, which can perpetuate a culture where sexual misconduct is tolerated. Therefore, it can contribute to a culture of victim blaming, where victims are seen as complicit in their assault, which can deter them from coming forward and reporting the incident.

## **Conclusion**

One of the key challenges identified in the study was a lack of awareness about what constitutes sexual misconduct. Many students and staff do not fully understand the different forms of harassment and assault, nor do they know the procedures for reporting such incidents. The lack of awareness is compounded by social norms that often trivialize or normalize certain behaviors, leading to confusion about consent and the severity of nonconsensual acts. Another significant barrier is reporting mechanisms. Fear of retaliation, stigma, and lack of trust in authorities prevent

many victims from reporting. A culture of silence is pervasive, with many victims fearing they will not be believed or blamed for the incident. This is exacerbated by instances where law enforcement or university officials ignore or blame victims, further discouraging reporting and perpetuating a cycle of silence and inaction.

Accountability is also a major issue. Institutional resistance and bureaucratic inertia hinder effective responses to sexual misconduct. The university often has complex administrative structures and established protocols that are slow to change. Decision-making processes can be lengthy and require consensus from many stakeholders, which can delay or undermine the implementation of needed reforms. This denial can result in inadequate support for victims and consequences for perpetrators. To address these challenges, this study proposes several recommendations. Comprehensive awareness campaigns are essential to educate students and staff about sexual misconduct and the importance of consent. These campaigns should aim to dismantle harmful gender norms and stereotypes that contribute to the normalization of harassment and assault.

Improving reporting mechanisms is another important step. Establishing a confidential, accessible, and victim-centered reporting system can encourage survivors to come forward without fear of retaliation or blame. Ensuring that reports are taken seriously and handled with sensitivity is essential to building trust in the system. Moreover, enhanced training for Task Force members, faculties, and staff is also needed. Providing extensive training on how to handle sexual misconduct cases sensitively and effectively can improve university responses and support for victims. This training should include guidelines on maintaining confidentiality, offering emotional support, and understanding the legal and institutional procedures involved.

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# **Barriers to Inclusion: Examining the Political Participation of Double Minorities in Rakhine**

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## **Abstract**

Myanmar's socio-political situation, complicated by the result of the 1982 citizenship law, which introduced a definition of citizenship based on ethnicity, is complicated, encompassing eight major national races and different subgroups. Within Rakhine State, the Mro, Thet, Kami or MroKhami, Daing-Net, Maramagyi, and Kaman, known as "double minorities," face significant challenges in their political participation. This study explores their involvement in local governance in Buthidaung, Rakhine State, finding the depth and nature of their struggle. This research employs an in-depth qualitative case study methodology and semi-structured interviews with three key groups: community leaders from double minority groups, Rakhine-based CSOs and NGOs, and United League of Arakan (ULA) interviews. The comprehensive and detailed data collection between April 2022 and December 2022 aims to understand these groups' systemic exclusion and discrimination. Findings reveal that discriminatory policies, administrative practices, and societal norms significantly hinder the political engagement of double minorities in Rakhine. These barriers include restrictions on movement and employment, challenges to accessing national identity cards, limited access to proper education, and exclusion from local decision-making processes. By thoroughly analyzing these dynamics, this study provides insights into the barriers to inclusion and proposes strategies that hold significant promise in fostering a more inclusive governance framework in Rakhine.

**Keywords:** Exclusion, Political Participation, Double Minorities

## **Introduction**

Myanmar, the largest nation in mainland Southeast Asia, is known for its ethnic diversity despite its population of around 55 million (South, 2008). The 1982 citizenship law, established during Ne Win's rule, categorizes eight primary 'national races' and 135 ethnic subgroups based

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on residency before 1823, the start of colonialism (Gravers, 2022). The 1983 census revealed that 69 percent of the population identified as Burman, with significant percentages of other ethnic groups, though updated data became available only in the 2014 census.

Some subgroups that identify distinctly from their parent minority populations are often called "double minorities" (Beeri & Saad, 2014). While Burmas hold a majority in many regions, they experience minority status in others, maintaining privilege nonetheless (Walton, 2013). In Myanmar, the rights of both minorities and double minorities require further advocacy and protection. The 2008 Constitution fails to adequately promote the political rights of these groups, leaving their social, political, and economic rights vulnerable (OHCHR, 2010).

International human rights laws emphasize equality and non-discrimination as foundational principles, articulated in Article 2 of the Universal Declaration of Human Rights (UDHR) and mirrored across various treaties (*The Right to Equality and Non-discrimination / Icelandic Human Rights Centre*, n.d.). These frameworks prohibit discrimination based on numerous factors, ensuring that rights such as political participation are upheld. Participation in governance is integral to democracy and necessitates equal access to political and public life for all, including double minorities. However, systemic discrimination and ongoing conflicts, including the recent coup, hinder these rights.

This study focuses on the representation of double minorities in Rakhine's local governance, exploring the reasons that hinder their inclusion. While recognized citizens under national laws, groups such as the Mro, Khami, Thet, Daingnet, Maramagyi, and Kaman<sup>2</sup> face significant barriers due to religious, linguistic, and ethnic distinctions. This paper sheds light on these challenges and examines their political participation.

## **Methodology**

This study employs a qualitative approach to explore the issue at hand. Data will be gathered through interviews with participants and key informants to examine the non-discriminatory, transparent processes and the participation of double minorities in local governance. This qualitative case study method is selected to investigate the objectives thoroughly. Given the limited data, primary sources, such as interviews, will be crucial. The semi-structured interviews will focus on "what" and "why" questions.

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<sup>2</sup> According to the 1982 Citizenship Law of Myanmar, there are 135 ethnic groups. Rakhine is one of eight main nationalities. In Rakhine, there are seven different sub-nationalities. They are Rakhine, Mro, Khami or Mrokhimi, Thet, Dating-Net, Mramagyi, and Kaman. Rakhine is the majority group in Rakhine State, and other sub-nationalities are minorities in Rakhine State.

Desk research will assess the right to political participation under Myanmar's 2008 constitution and the Ward and Village Tract Administration Law 2012. It will also reference international guidelines and reports on minority rights, including those from the OHCHR and expert Gay McDougall.

Documents from the general administration department and Union Election Commission will provide legislative context. The topic of double minorities' participation in governance is significantly underexplored in Myanmar, and the existing literature is sparse.

Data collection in Buthidaung, Rakhine, occurred between April and December 2022, targeting three groups: community leaders from double minorities, Rakhine-based CSOs and NGOs focused on minority rights, and representatives from the Arakan Army (AA). The interviews, conducted via virtual platforms due to security concerns, were semi-structured with pre-set questions, and all responses were documented and transcribed.

## **Literature Review**

### *Participation in Local Governance*

Local government institutions are established through national constitutions, legislation, or executive orders to deliver services within specific areas (Shah, 2006). He said that the local governments play a critical role in formulating and executing collective actions at the community level, involving formal government structures and informal networks, such as community organizations and neighborhood associations. He mentioned that effective local governance not only focuses on service delivery but also fosters democratic engagement, supports sustainable development, and enhances the quality of life for residents. Two main concepts approached by Shah highlight that representative government becomes more effective when closer to the people and that citizens should have a say in the public services they receive.

Kweit (1981) has long stressed the importance of citizen involvement in government decision-making, noting that participation improves service delivery and fosters trust in government. He argued that effective participation depends on several factors, including participation mechanisms, the structure and capacity of organizations, and the socio-political environment.

### *The Right to Participation of Minorities in Local Governance*

Participating in public life is crucial for minorities' social inclusion. International standards emphasize "effective participation" to ensure diverse representation in public institutions, including government and civil services (Slidders, 2019). This principle reflects societal diversity in decision-making and governance processes, allowing minorities to preserve their identities while contributing to state governance.

Including minorities requires specific rules for political representation, encompassing participation at various government levels, consultative bodies, and special electoral arrangements. These measures help ensure that minorities can effectively participate in public life, promoting governance that respects diversity and fosters state integrity (Palermo & Woelk, 2003).

### *Inclusion and Exclusion in Local Governance*

Globally, indigenous populations and minorities often face exclusion from political representation and service delivery (Kincaid et al., R. Eds., 2008). Ensuring these groups have an influential voice in governance is vital for self-determination and equal access to public services. Local governments play a crucial role in protecting minority rights and collaborating with minority representatives to promote inclusion.

### *Discrimination and Exclusion*

Exclusion often involves socio-political denial and can range from subtle to overt discrimination. True economic and political equality is unattainable without social equality, as outlined in international human rights declarations that prohibit discrimination based on various factors.

In Myanmar, ethnic minorities face barriers in obtaining National Registration Cards, affecting their access to rights such as education, health, and freedom of movement (Htet et al., 2019). Discrimination extends to political representation, where groups without armed organizations are often marginalized. This exclusion impacts their ability to participate fully in local governance.

### *Myanmar's Legal Framework for Participation in Local Governance*

Myanmar's local governance elections are overseen by the General Administration Department rather than an independent commission, raising concerns about bias and adherence to international norms (Kyed et al., 2016). The electoral process lacks universal suffrage, often excluding women and youth, and the appointment of local administrators is seen as lacking transparency and inclusivity (ibid).

## **Conceptual Framework**

This study examines the political participation of double minorities in local governance in Rakhine, focusing on policies, administrative systems, and societal factors. According to (King et al., 1998), participation in local governance has to be looked at from three perspectives: the policies and mechanisms, the types of administrative systems and practices, and the nature of contemporary society. Discrimination in access to rights like education and health limits political participation. Everyone has the right to participate in political and public life, but being double minorities in the

community or State may have faced discrimination or exclusion to access their fundamental rights (Baviskar & Mathew, 2009). The framework is based on the right to freedom from discrimination, as stated in the Universal Declaration of Human Rights and other international covenants. It aims to identify barriers to inclusion and propose strategies for more equitable governance.

## **Findings**

### *Inequitable Policies and Practices*

The interviews revealed that existing policies and practices are a significant barrier to the political participation of double minorities in Rakhine. One of the most encountered issues is obtaining national identity cards. It is essential for accessing varied services and participating in political processes. Many interviewees emphasized how bureaucratic procedures are often biased against them, requiring bribes or facing out-and-out refusals based on ethnic and religious grounds. This lack of official documentation prevents them from voting, standing for election, or participating in community decisions. It leads to the effective silencing of their voices in governance.

One communal leader from the Thet ethnic group described their many challenges in getting identity cards for their community. Immigration officers did not try to fulfill their requirements; they were constantly asked for other, often unnecessary, documents or faced lengthy delays without clarification. This systemic discrimination keeps them in a state of vulnerability and marginalization.

### *Absence of Educational Chances*

Access to education remains a crucial barrier for double minorities in Rakhine. Many double-minority communities lack essential educational services and facilities. If schools exist in their areas, they are primarily underfunded and short-staffed, which causes poor educational outcomes. Furthermore, inequitable practices within the educational system discourage minority students from accessing higher education, thereby restraining their prospects for participation in governance and professional fields.

A Maramagyi teacher shared her struggle to provide quality education with limited resources. Whatever her efforts, the lack of support from the local government and discriminatory mindsets from other community members undermined students and parents, leading to high dropout rates and low educational completion in her community.

### *Marginalization from Decision-Making Processes*

The marginalization of double minorities from local decision-making processes was a repeated subject in the interviews. Although they are residents of Rakhine State, they are not discussed or incorporated into local government. This marginalization results from formal policies and informal practices that exclude their participation. Local bodies and administrative organizations rarely include representatives from double minority groups. Furthermore, their issues are often excluded in favor of the majority populations' concerns.

An interviewee from the Daingnet ethnic group described where their community's request for a school building was overlooked, but similar requests from most Rakhine communities were promptly tackled. This systemic unfairness in decision-making highlights their marginalization and strangles their community development.

### *Constrained Freedom of Movement and Work*

Double minorities in Rakhine also face various constraints on their movement and work opportunities. The interviews implied these limitations are often applied through formal checkpoints and curfews. Moreover, they went through informal societal demands and fears from dominant ethnic groups. Orfield and Eaton (1996) argued that policies failing to address inequities perpetuate cycles of poverty and limit social mobility for marginalized groups. These restrictions obstruct their economic development and limit their ability to participate in broader political and social networks, further dividing them.

A member of the Kaman community pointed out that their movement is closely monitored. Any effort to travel for work or education outside their designated areas is met with mistrust and often denial of permits. This restriction has led to economic unproductivity within their community because they need help accessing better job opportunities or markets to sell their products.

## Conclusion

The findings of this study highlight the systemic marginalization and discrimination faced by double minorities in Rakhine, expressively hindering their political participation. The legal frameworks failed to protect their rights, and the practical implementation failed because of deep-rooted biases and administrative barriers.

Tackling barriers to inclusion for double minorities in Rakhine requires different approaches. These involve policy reform, community awareness, and sustained strategies to overcome discrimination. Rakhine can implement these strategies to foster a more inclusive and equitable political landscape. All communities will be able to participate fully and effectively in local governance. This study provides a foundation for further research and advocacy to reach this goal.

In order to facilitate more inclusive political engagement, it is imperative to overhaul the bureaucratic procedures and protocols that impede minorities from acquiring national identity cards. Improving and applying anti-discrimination laws at the local structure is essential to prevent discriminatory practices (Pager & Shepherd, 2008).

Simplifying procedures, abolishing discriminatory practices, and introducing oversight mechanisms can help these double minorities receive the documentation they need to participate fully in political life.

Local governance structures must be improved to contain representatives from double minority communities. It can be attained through reserved seats in local government structures and administrative bodies to ensure their voices are heard and their needs are tackled. Also, creating regular consultation environments like town halls where minorities can directly speak their concerns, fears, and interests to local authorities can help to link the gap between these communities and the existing local government.

Rawls claims that inequalities should be arranged to benefit the least advantaged members of society (Rawls, 1971). Improving access to education for double minorities is crucial for their long-term political and social inclusion. Investment in educational infrastructure, scholarships, and anti-discrimination training for teachers and the education staff can help create a more supportive environment for minority students. Education programs aimed at accessing higher education and professional development among double minority communities will also play a fundamental role in empowering them to take on leadership roles in the future.

Policies should be applied to lift pointless restrictions on freedom of movement and to make equal economic opportunities for minorities. This could include establishing clear guidelines and procedures to prevent inequitable practices at checkpoints and providing economic incentives for businesses to employ from these communities.



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# **MONGOLIAN PURSUITS OF HIGHER EDUCATION IN SOUTH KOREA: ASPIRATIONS AND COMPLEXITIES WITHIN EDUCATIONAL MOBILITY**

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## **Abstract**

The study explores the experiences of Mongolian international students in higher education in South Korea, focusing on their cultural motivations, socio-economic challenges, and the complexities of educational mobility. South Korea's strategic efforts to attract international students through funding programs and streamlined visa processes have facilitated the entry of Mongolian students, who constitute one of the largest international student demographics in the country. Despite these opportunities, Mongolian students face significant challenges, including language barriers, financial constraints, high expectations for academic performance tied to fluctuating funding opportunities, and the precarious nature of their non-citizen status. Additionally, mental health and well-being issues arise from academic pressures, social isolation, and the need to balance studies with informal work to cover living expenses. Attitudes towards Mongolian labor migrants further complicate their experiences, leading to forms of discrimination and societal exclusion. Through a qualitative approach, including in-depth interviews and digital content analysis, this research delves into the lived experiences of Mongolian students. The findings reveal a strong cultural push towards studying abroad, driven by communal and familial expectations. South Korea was chosen for its accessibility through brokerage companies, the availability of scholarships, geographic and cultural proximity, and existing Mongolian communities. However, students encounter difficulties in obtaining visas prior to starting their education. Funding does not cover full tuition or living costs, leading many to engage in informal work to meet financial needs, while others feel the duty to send remittances back home.

**Keywords:** Mongolian international students, South Korea, educational mobility

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## **Introduction**

This study focused on Mongolian students seeking higher education in South Korea, reflecting not only their aspirations but also the broader socio-economic dynamics at play within educational mobility. South Korea's strategic initiatives to attract international students, including extensive funding programs and streamlined visa processes, have facilitated more accessible access to its educational system (Jon et al., 2014). Mongolian students have emerged as one of the most prominent international student demographics within South Korean higher educational institutions, constituting the fourth-largest group of international students. South Korea, hosting the largest concentration of Mongolians living abroad - over 50,000 individuals - offers a unique lens to examine ongoing socio-economic dynamics and complexities within educational mobility.

Despite international study being a significant avenue for migration, international students are often left out of the migrant category of analysis. International students are often seen as affording relatively heightened status from other migrant categories through their student visas, yet they still face precarious conditions within their host state due to their non-citizen status (Chacko, 2021). The transboundary context of their condition also entails challenges in adaptation, separation from the community, financial difficulties, culture shock, language and cultural barriers.

The current generation of Mongolian international students is the first to have grown up within a democratic and capitalist system, as well as within a globalized world. Mobility outbound from Mongolia has only been possible in the past three decades after the transition from communism. The country's small population of 3.5 million and lower-middle income developing context play into the considerations of the migrant population's characteristics. Mongolian migrants are often labor migrants, engaging in informal economies, with a perceived high likelihood of illegal overstay. Subsequently, Mongolians face incredible difficulties in attaining visas to developed countries.

South Korea's efforts to attract and diversify its international student body are reflected in its policies designed to address projected declines in the college-age population by making the country more hospitable to foreign students and increasing its standing as a global educational leader (ICEF Monitor, 2023). Many Mongolian students are taking advantage of these diversified opportunities as seen in the growing number of them studying in South Korea. This paper is part of a master's thesis entitled: *Mongolian Students in South Korea: Aspirations and Complexities within Educational Mobility*.

## **Methodology**

This study adopts a qualitative approach, utilizing in-depth semi-structured interviews and comprehensive digital content analysis to explore the experiences of Mongolian students in higher education in South Korea. Eight Mongolian students currently enrolled in higher education institutions in South Korea were interviewed. Participants were contacted and recruited through personal and professional networks, with considerations for variety in fields of study, equal gender proportion, and levels of study. Interviews were conducted online using the Mongolian language, focusing on academic challenges, social integration, cultural adjustments, and future aspirations. Special attention was paid to ethical considerations, particularly the anonymity and confidentiality of the participants. Specific personal details have been obscured or generalized to protect their identities.

In addition to interviews, this study includes an extensive analysis of digital content relevant to the experiences of Mongolian students in South Korea. This includes academic articles, online forums, social media platforms, and multimedia content. The digital content was analyzed using thematic analysis to identify trends and commonalities across various types of content.

## **Conceptual Framework**

The study employs an interdisciplinary approach to contextualize the experiences and environment surrounding the educational migration of Mongolians to South Korea. Benwell's (2013) work on migration and separation highlights the communal nature of Mongolian migration, linking it to the country's nomadic heritage and its affinity for mobilization and capitalist endeavors (Ichinkhorloo, 2018). Migration in this context is seen as a strategy for communal prosperity, addressing gaps in economic opportunities, and impacting the societal fabric. This type of migration is framed as a communal project, where benefits and profits are balanced against observed ruptures within communities. The cultural resilience of Mongolians, built through continuous transitions and subjectivity to larger forces, underscores their proactive aspirations and efforts to push forward despite uncertainties (Empson, 2020).

The incorporation of much of the world into a globalized economy has created and reiterated hierarchies among nations, sustaining global inequality (Castles, 2005). Visa requirements and mobility restrictions are key components of this inequality, placing stringent conditions on citizens from lower-standing nations (Lenger & Schumacher, 2015). This global governance model has fostered existential inequality, contributing to a sense of precariousness for

many individuals (Durr Schmidt, 2014). The study of precarity extends to analyzing the conditions within migratory contexts, recognizing the abundant inequality and hierarchical latitude in the global system (Cho, 2022).

Global capitalism critiques the of people within the globalized world, which helps analyze why precarious conditions persist through the commodification and dehumanization of individuals (Robinson, 2017). The expectation that educated migrants will contribute to their home country's development adds complexity, placing significant pressure on students to balance academic responsibilities with economic expectations (Asian Development Bank, 2012). Student migration, therefore, operates at the intersections of mobility, precarity, and inequality. The ramifications of student mobility within South Korea are further contextualized in the work recognizing ethnic discrimination and mental health impacts on Asian students (Suh, Flores & Wang, 2019). This framework helps understand the transactional lens through which Mongolian students must negotiate their worth and potential.

Transnationalism has emerged as a critical framework in migration studies, reflecting the transformation of cross-border networks and communities within globalization (Pence & Zimmerman, 2012). It contextualizes the diminishing impact of borders as the mobility of people, capital, culture, and ideas becomes more fluid. Despite easier connectivity, the global system still maintains control over borders and human mobility. Higher education learners occupy a unique space with partial mobility advantages through student visas. Transnationalism builds upon the understanding of diasporas, recognizing the fluidity of social identity (Bradatan et al., 2010). Migration is seen as a first step in reconciling one's positionality in the global hierarchy, with power dynamics and hierarchies impacting both communal and individual levels (Castles, 2005). This framework underscores the navigation of individuals through global capitalism, highlighting the dynamic and evolving nature of transnational identities.

## **Findings**

### **Cultural Support and Push to Pursue Abroad Education**

The decision to pursue higher education abroad among Mongolian students is deeply rooted in cultural, communal, and familial contexts. The push to seek educational opportunities outside Mongolia is not solely an individual pursuit but a collective ambition that involves immediate family, friends, co-workers, and mentors. This communal encouragement is driven by the perception that failing to take advantage of such opportunities is seen as a "waste of

opportunity" or even a "waste of youth." Given the country's socio-economic disparities and limited local opportunities, individuals with the means—whether through language proficiency, financial resources, or fewer personal responsibilities—are urged to seize these opportunities.

The cultural ethos encapsulated in phrases like “try out their luck” or “gamble one’s luck” underscores the community's perspective on the importance of educational migration. The portrayal of studying abroad on social media as aspirational and achievable through effort further fuels this drive. Moreover, familial support often stems from parents' previous experiences studying or working abroad, reinforcing the desirability and perceived benefits of overseas education.

Peers and the presence of established Mongolian communities in South Korea also serve as significant motivators. The presence of relatives, friends, or acquaintances already residing in South Korea provides a sense of security and belonging, making the prospect of studying there more appealing. Additionally, the underdevelopment or absence of certain academic fields in Mongolia necessitates seeking education abroad, where these fields are more established and advanced.

The broader societal messaging normalizes and promotes the expectation of pursuing education abroad, portraying it as a communal venture aimed at uplifting the entire network. This reflects a collective strategy where migration is not merely for individual advancement but for the betterment of the community.

### **Choice of South Korea for Education**

The decision to study in South Korea among Mongolian students is influenced by an interplay of accessibility, quality, and strategic convenience. South Korea's proactive initiatives to attract international students make it an appealing destination. These initiatives include lower visa requirements, English-taught programs, geographic proximity, and a perception of safety.

While the United States is often the preferred choice for Mongolian students, the high tuition costs, lack of scholarships, visa barriers, and societal perceptions of safety deter many from pursuing education there. In contrast, South Korea offers a more financially viable and accessible option.

The presence of brokerage companies that facilitate applications to South Korean institutions and the availability of direct contracts from schools to university language programs further streamline the process.

Despite these advantages, obtaining visas remains challenging for many Mongolians, exacerbated by the complexities surrounding illegal migration and additional paperwork requirements if family members have previously migrated illegally. However, the high concentration of Mongolians in South Korea ensures that many students already have a support network in place, making it a practical and appealing option for higher education.

### **Procuring Visa and Getting Funding**

The process of obtaining a visa and securing funding for education in South Korea presents significant challenges for Mongolian students. Visa applications are lengthy and complex, often necessitating the use of brokerage systems to navigate the process. The presence of illegal Mongolian migrants in South Korea further complicates this, requiring additional documentation and scrutiny for applicants with family members who have migrated illegally.

Financial barriers are substantial. Students must demonstrate proof of finances, with a requirement to show over \$10,000 in a bank account. Additionally, upfront tuition payments for the first semester, mandatory university dormitory stays, and air travel expenses due to Mongolia's landlocked position add to the financial burden. Many students resort to loan companies that specialize in providing proof of finances for visa applications, often at high interest rates. Consequently, students frequently start their education already burdened with debt, expecting to earn money to repay these loans once they arrive in South Korea.

Funding for language programs is contingent on high scores on the Test of Proficiency in Korean (TOPIK). Even then, funding is rarely full, with the maximum coverage being 90 percent for the highest TOPIK grade. Higher-level studies, especially in specialized fields like technology and engineering, may offer full tuition and stipends but come with high expectations for research commitment.

### **Informal Work**

The financial pressures faced by Mongolian students often drive them to seek informal work to cover living expenses and tuition gaps and to send remittances back home. While stipends provided by scholarships may initially seem generous compared to earnings in Mongolia, they are insufficient to meet living costs in South Korea, let alone support family members back home. Engaging in informal work poses significant risks. South Korea's immigration authorities frequently conduct stringent crackdowns on illegal work. Penalties for being caught include fines,



visa revocation, deportation, and ineligibility for future visas. Despite these risks, many students feel compelled to work informally due to financial necessity.

Types of informal work range from "lighter" jobs like cleaning, service work, hotel reception, and moving, which offer lower pay, to "harder" jobs in industrial cleaning, agriculture, construction, and even sex work, which provide higher wages. Finding such work often requires connections within the Mongolian community in South Korea, as language barriers and employer preferences limit opportunities.

The expectation to engage in informal work is also culturally embedded, with a "profit-maximizing" mindset prevalent among Mongolian students, labor migrants, and even tourists in South Korea. This creates a dynamic where many students balance demanding work schedules with their academic responsibilities, often leading to exhaustion and high dropout rates.

### **Balancing Finances, Time, and Education**

The juggling act of managing finances, time, and education is a common challenge for Mongolian students in South Korea. Scholarships rarely cover full tuition or living expenses, leaving students to fill the gaps through informal work. The pressure to maintain high academic performance to retain scholarships adds to the stress.

The financial allure of informal work, where a week of part-time work can exceed a month's salary in Mongolia, often leads students to prioritize work over their studies. This results in fatigue, decreased academic performance, and frequent absenteeism, which can jeopardize their visa status.

The anxiety and insecurity of participating in illegal work further compound the stress. Many students struggle to balance the demands of work, study, and language acquisition, leading to frequent dropout rates. The stringent attendance policies of South Korean universities, monitored through apps that track student attendance, add to the pressure.

### **Accessing Services, Language, and Financial Barriers**

Language barriers remain a significant obstacle for Mongolian students, despite their participation in language programs. Many students feel insecure in their Korean language abilities, which hinders their engagement with the broader South Korean society and prevents them from forming deeper connections with their peers.

Financial constraints and language barriers also deter students from seeking medical and other essential services. Deteriorating mental health is a common issue, exacerbated by the stresses

of balancing work and study, financial insecurity, and homesickness. Some students resort to binge drinking as a coping mechanism.

South Korean institutions have made efforts to cater to the needs of Mongolian students by employing Mongolian-speaking staff in schools and hospitals. However, these measures are often insufficient to address the complexities of the students' experiences.

### **Being Boxed, Othering, and Discrimination**

Mongolian students in South Korea frequently experience a sense of being "boxed" or constrained by various factors, including language barriers, cultural differences, and experiences of othering and discrimination. This sense of being boxed extends to their interactions within the homogenous South Korean culture, rigorous academic and work schedules, and reliance on Mongolian networks abroad.

Discrimination towards Mongolians is evident in certain establishments and policies, such as bars and entertainment venues that prohibit Mongolians, and in the negative perceptions held by some South Koreans. These experiences contribute to feelings of isolation and alienation, further exacerbating the challenges faced by Mongolian students.

The ongoing tension between their identities as Mongolians and their status as foreigners in South Korea adds another layer of complexity to their experiences. Despite these challenges, many students remain resilient, driven by a sense of responsibility to their families and a desire to succeed.

### **The Development Gap and Recontextualizing Mongolia**

Mongolian students' experiences in South Korea highlight the stark development gap between their home country and the host nation. The advanced infrastructure, technological advancements, and higher living standards in South Korea often prompt reflections on Mongolia's underdevelopment. This dissonance fuels a desire among students to bring back knowledge and skills to contribute to Mongolia's development.

At the same time, their experiences abroad foster a deeper appreciation for Mongolia's cultural and societal context. Many students express a newfound empathy for the challenges faced by their home country and a stronger sense of national identity.

### **The Future and Gratitude for New Opportunities**

Despite the challenges, Mongolian students in South Korea remain hopeful and grateful for the opportunities presented to them. The experience of studying abroad opens doors to further

global opportunities, including the possibility of pursuing education or careers in other countries such as the United States.

For some, the experience in South Korea serves as a stepping stone to other international endeavors, alleviating visa anxieties and broadening their horizons. However, the future remains uncertain for many, with prospects heavily influenced by their fields of study and the socio-economic conditions in Mongolia.

## **Conclusion**

The options afforded to Mongolian international students and their navigation through their experiences show the ramifications of uneven development. Mongolian migrants' reputation and treatment have ongoing implications and effects on Mongolian international students.

The informal activity, financial burdens, and discrimination toward Mongolians have ongoing effects on the experiences of Mongolian international students, sustaining a sense of precarity. Additionally, it is important to recognize the work as "informal" or "illegal" precisely due to their non-citizen/migrant status; otherwise, most of the work these students are partaking in would be considered part-time work. However, these are heavily criminalized.

The mobility of international students and subsequent higher security afforded to specialized professionals both within South Korea and on the global stage highlights the evaluation of people as commodities in consideration of where they are allowed to mobilize or exist.

South Korea's initiatives also leave gaps, leaving Mongolian students with conditions of precarity and insecurity, needing to meet financial gaps and discrimination during their time studying in South Korea.

A person does not simply occupy space as what is expected of them within global mobility. In this case, international students cannot simply disregard all of their humanity and be students. Their lives are a dynamic mixture of their conditions and the conditions surrounding them.

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**ASSESSMENT OF BARRIERS TO FOOD AVAILABILITY AND ACCESSIBILITY OF  
CONFLICT-AFFECTED INTERNALLY DISPLACED PERSONS IN WESTERN PART  
OF DEMOSO TOWNSHIP, KARENNI (KAYAH) STATE AFTER 2021 COUP IN  
MYANMAR**

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**Abstract**

Myanmar has been home to over 70 years of protracted civil war and a bloodshed coup that produced a skyrocketing number of conflict-affected populations. The livelihood situations of internally displaced persons (IDPs) devastatingly lack human rights and security. The coup has swept away the peace of the Karenni State, where the Myanmar military's indiscriminate attacks and cutting off humanitarian aid are imposing severe threats to human security. Although the rights of IDPs, including the right to food, have been legally protected in international human rights documents, Karenni IDPs still lack any forms of protection. Many children in the IDP camps suffer malnutrition, and the mortality rate is alarmingly increasing. This research focuses on conflict-induced and structural barriers that obstruct the food availability and accessibility of the IDPs under the concept of food security. Moreover, this study also discusses the importance of localization and cross-border humanitarian aid, where the local governance mechanisms and local humanitarian aid workers play prominent roles in IDPs' food security while formal state institutions are dysfunctioning and the SAC is politicizing humanitarian aid.

**Keywords:** Conflict-affected IDPs, food insecurity, barriers, food availability, food accessibility, Karenni

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<sup>1</sup> Myat Su Thwe is an M.A. candidate at the Institute of Human Rights and Peace Studies at Mahidol University. This research paper is part of the thesis entitled "Analyzing Barriers to Food Insecurity of Conflict-Affected Internally Displaced Persons in Western Part of Demoso Township, Karenni (Kayah) State After 2021 Coup".

## **Introduction**

Myanmar, amidst a fragile political landscape and over 70 years of civil war, faces profound challenges exacerbated by the events of 2021. Following the military coup on February 1, civilians resisted the military dictatorship and vigorously demanded the restoration of democracy by conducting nationwide protests. In response, the military juntas aggressively suppressed nonviolent protests and civil disobedience campaigns in a bloodshed way. The brutal crackdown led to the formation of local people's defense forces (PDFs) and the intensification of clashes between ethnic armed organizations (EAOs) and the Myanmar Military (Tatmadaw), which has resulted in increased militarization and the displacement of over 223,000 people nationwide (Fortify Rights, 2021). Karenni State, in particular, has seen severe displacement, with over 82,200 IDPs registered as of June 2022 (UNHCR, 2022). Approximately 65 percent of civil servants in the Karenni State joined the Civil Disobedient Movement (Bedu, 2021). Intensified conflicts in Karenni State led many IDPs to seek safety in makeshift camps in the jungle, exposing the grave humanitarian situation including hunger issues.

IDPs face daily insecurity due to the SAC's attacks, forcing them to relocate frequently and preventing the establishment of permanent camps. Vulnerable groups, such as the elderly population, children, and people with chronic illnesses, confront significant challenges. Around 60 percent of IDPs are starving and depend on humanitarian aid for survival. Limited donations result in one meal per day, causing severe malnutrition, particularly among children. IDPs commonly consume forest veggies like bamboo shoots and edible leaves. In some areas, rice scarcity forces IDPs to eat low-quality coarse rice, which is used to make alcohol and is unfit for human consumption.

## **Research Methodology**

This study used a qualitative method to provide a descriptive narrative. Narrative research was chosen because it efficiently captures individuals' or small groups' life experiences and stories (Creswell, 2013, pp. 73–74). Primary data sources were used to provide descriptive findings, supported by secondary sources such as publications, reports, books, papers, and journal articles. The researcher used a dual method to gather primary data by first interviewing the humanitarian relief NGOs, Karenni CSOs, and local governance specialists classified as "key informants" with a purposive sampling method. Secondly, by using the snowball sampling method, the researcher conducted semi-structured interviews with "IDP camp residents" by conducting the interviews via phone calls.

The study employed thematic data analysis by identifying significant themes. Data collection and analysis occurred concurrently. The process began with conducting interviews, followed by transcribing, coding, and categorizing into sub-themes.

Displacement places in western Demoso township are selected as research sites and it is not possible to name a specific IDP camp since the IDPs are scattered in temporary makeshift camps.

| Groups of respondents  | Number of respondents |
|--|-----------------------|
| IDP camp residents   | 5                     |
| <b>Key Informants</b>  |                       |
| 1. Local humanitarian aid workers and organizations          | 8                     |
| 2. Experts and responsible persons for local government unit | 2                     |

Table 1- Table Showing the Interview Respondent Groups and Numbers

### Conceptual Framework

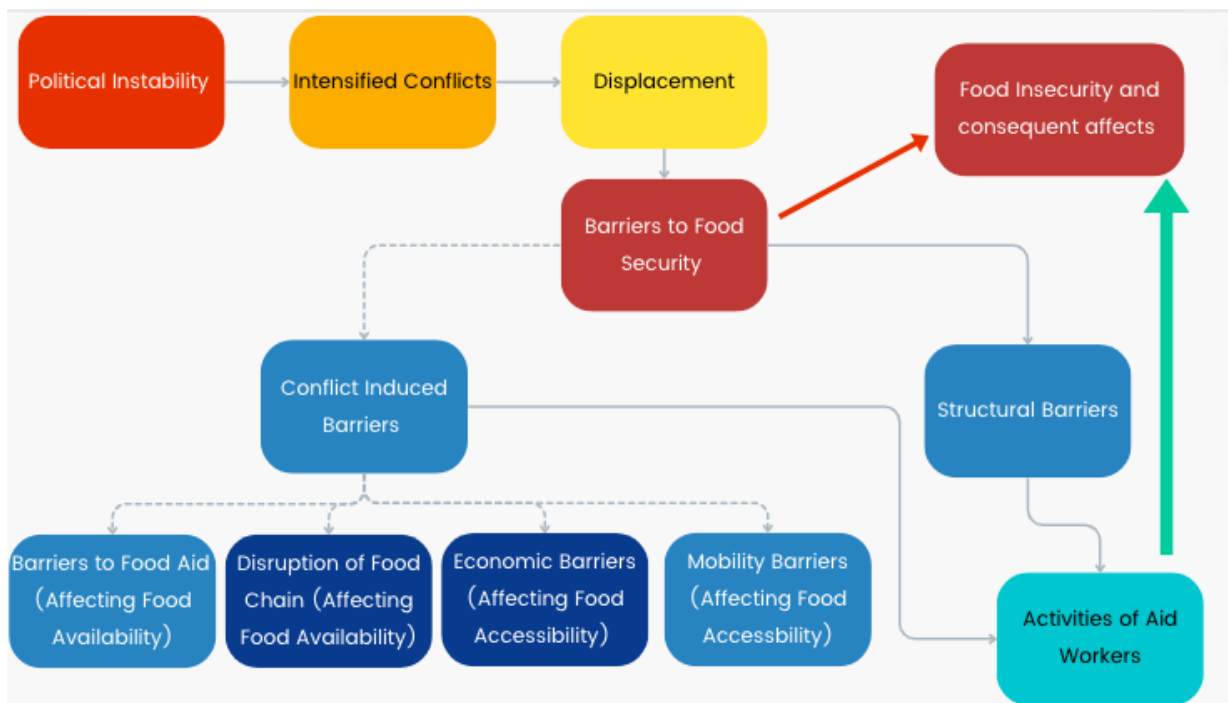


Figure 1- Conceptual Framework

Amidst different scholars' breakdown of the food security concept into four distinct dimensions as "food availability, accessibility, utilization, and stability," Pen et al. (2019) argued that a linkage between these dimensions is necessary as they are somewhat interrelated and interdependent rather than being separate. Following an analogy applied by the FAO, WFP, and IFAD (2021), the authors categorized these different dimensions into various levels as follows.



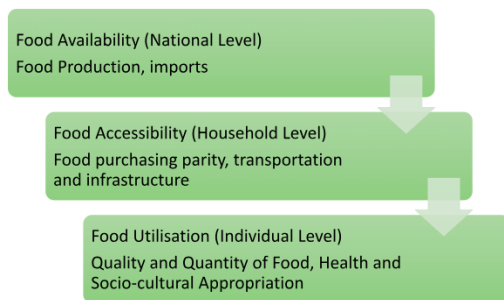


Figure 2- Linkages of Food Security Dimension

Therefore, food availability at the national level impacts households' capacity to access food. Subsequently, individuals can utilize food only after food availability and accessibility are well-secured at the national and household levels.

Furthermore, to analyze barriers to adequate food, generally, four critical barriers can be applied: (1) low farm productivity, (2) climate change, (3) structural inequities, and (4) crises like wars and natural disasters (TechnoServe, 2022).

The last type of barrier—crisis-induced barriers—which reflect the nationwide impact on food security will be used to analyze barriers to food security. These barriers primarily affect food supply and accessibility, including interruptions to the food chain system in the Karenni State, economic issues, and mobility constraints. Furthermore, structural barriers mean dysfunctional governmental institutions, as described by Alinovi et al. (2007, p. 7). The authors further explain that institutional changes were brought by a protracted absence of governance, frequently the source of the conflict and by the conflict itself.

## **Barriers to food availability and accessibility among conflict-affected IDPs in Western Demoso**

### **Conflict-Induced Barriers**

#### **Barriers Disrupting the Self-Production of Food (Barriers to Food Availability)**

The main obstacles to food availability are severe food shortages and high rice prices. These are mainly caused by a decline in local food production due to insecurity. Before the conflicts and the coup, agriculture, particularly rice and sesame farming, was the backbone of Demoso's economy. However, ongoing conflicts have restricted agricultural activity, resulting in farmlands being destroyed or mined, preventing IDPs from farming. Many displaced IDPs in western Demoso, who came from other parts of Karenni State, lack access to farming and rely significantly on food assistance. Only a small percentage have obtained permission to grow tiny

acres of land local villagers possess for food production. Access to farmland is further impeded by the presence of military camps and the risk of sniper attacks and arrests imposed by SAC troops.

Financial barriers are also significant, as IDPs with relatively little money cannot invest in agriculture and face the uncertainty of constant mobilization due to the unpredictable security situation.

Another notable barrier to food availability is the disruption of plantation patterns. Traditionally, harvested crops were stored for self-sufficiency and utilized as seeds for the following plantation year. However, escalating insecurity has led to a drastic reduction in planting, disrupting this cycle. No crops were available for local rice millers in 2023, so it further exacerbated the rice shortage. Initially, IDPs relied on reserved rice stored by rice millers in the first two years after the coup, but as these reserves depleted, hunger re-emerged. Some rice mill owners have kept stocks for personal use and refused to sell, worsening the food shortage. Local humanitarian organizations have had to purchase rice from neighboring states, such as Moe Bye in Shan State, to meet immediate food needs. Such circumstances highlight the crucial reliance on external food sources and the urgent need to restore local agricultural production amidst ongoing instability.

Breeding animals and farming also face significant challenges for IDPs in Karenni State, exacerbated by limited resources and security risks. While humanitarian aid occasionally provides chickens and a few piglets for breeding, financial constraints prevent many IDPs from expanding or sustaining breeding animals.

Water scarcity is another critical barrier that affects human consumption and agricultural and breeding needs, particularly in Karenni's dry summer months. IDPs are often located near water sources for farming, but this exposes them to danger from nearby military deployments. During the rainy season, there is an abundance of water, which allows for self-farming. However, water scarcity remains a persistent barrier to sustainable agriculture and livestock breeding for IDPs.

### **Barriers to Food Aid (Barriers to Food Availability)**

A lack of regular aid provision is one of the critical barriers to achieving food security. IDPs report receiving aid occasionally, making survival difficult in months without it. Camps in rural places are difficult to access, leaving some IDPs hungry. As displacement persists, declining food aid presents another difficulty. The Karenni diasporas provide the majority of aid (70 percent), with the remainder coming from international organizations and the National Unity Government. Aid has declined since 2023 from diasporas and domestic since the inflation rates gradually increased, and the people within the country were struggling to survive for themselves.

Moreover, the donations received are utilized for humanitarian aid and conflict expenses, such as equipping arms for the PDFs. In 2021 and 2022, local aid workers distributed three-month food rations that included rice, oil, instant noodles, salt, and beans. By 2023, decreasing financial aid and empty warehouses had led them to cut back, typically giving only one month's worth of food. Some local organizations struggled even to provide monthly distributions.

Next, the SAC's strict banking policies and targeted arrests on transferring aid funds are significant obstacles. After the coup, organizations faced approximately six months of restricted access to frozen or heavily monitored bank accounts, forcing them to resort to informal hundi systems for transfers. The significant currency exchange gap worsens financial losses as official rates lag behind black market rates, impacting INGOs and CSOs' ability to afford rising commodity prices when transferring money via official banking channels. Aside from the significant currency exchange gap, relying on the formal banking system for money transfers can lead to increased surveillance. Many organizations use hundi and other informal money transfers to get more money from hundi agents' high exchange rates and avoid the highly monitored formal banking system. However, these hundi systems are under increasing surveillance from the SAC, making it more difficult for organizations to find reliable hundi agents as many are closed down or detained.

Arresting aid workers also poses a significant risk, necessitating them to operate quietly. Traveling is difficult due to the SAC troops' searches of aid workers' electronic devices. Indiscriminate attacks on IDPs and relief personnel are concerning. On December 24, 2022, the SAC troops massacred 35 people in Karenni State, including two humanitarian workers (Esther, 2021). This resulted in aid workers raising concerns about imprisonment or assassination. Internet and cell phone restrictions in Karenni State complicate relief operations, making it challenging to communicate with donors and identify critical needs in IDP camps.

## **Economic Barriers (Barriers to Food Accessibility)**

### *Barriers to self-generation of income*

The main difficulty for IDPs is the widespread fear of violence and attacks when they leave their homes to work. Many IDPs have firsthand experience with the threats of conflict, such as artillery strikes on markets that resulted in IDPs' injuries and the closing of the shops they were running for income. Despite these risks, IDPs continue seeking jobs because humanitarian help alone is insufficient to ensure survival, however, their job prospects are limited.

Some IDPs have been able to create small businesses or work as daily wage laborers, mainly in agriculture. However, these options are limited and rely on the willingness of local villagers to hire them. Furthermore, many farmlands have been abandoned or destroyed due to conflict, limiting employment opportunities. The lack of reliable income sources contributes to mental health issues among IDPs.

The significant rise in food and commodity prices presents a serious concern. According to an aid worker, rice prices increased from MYK 20,000-30,000 per sack in 2021 to MYK75,000-80,000 in 2023. Additionally, increasing prices make it difficult for humanitarian workers to purchase sufficient food for the growing IDP population.

### *Barriers to Market Accessibility*

Market accessibility poses significant challenges for IDPs in western Demoso, where small local markets offer limited food variety. Goods and food are mainly supplied by merchants from distant cities like Loikaw (the capital city of Karenni) and Moebye, who have to pass through dangerous checkpoints or jungle routes, doubling the prices of commodities due to merchants' travel risks. Consequently, IDPs in remote areas where merchants cannot travel settle hunger by eating seasonal vegetables in the jungle to survive. The conflict in Loikaw further exacerbates these challenges, making merchants unable to buy commodities from Loikaw. IDPs are reluctant to start businesses (running small shops) in the local markets due to the uncertainty of further displacement, fearing loss of invested commodities during conflicts. These combined conditions greatly hinder the market access and economic stability for IDPs.

### **Mobility Barriers (Barriers to Food Accessibility)**

Demoso is under martial law and targeted by the SAC's four-cut strategy, which includes blocking food supply routes. SAC's troops stationed at checkpoints arrest locals carrying medical supplies or food, confiscating goods and vehicles, and accusing them of supporting terrorist groups. Arrested civilians risk torture or death, and troops often demand bribes for release or passage. This threatens humanitarian organizations and merchants by preventing them from carrying vital supplies, resulting in food shortages. Aid workers face delays in aid delivery as well, causing IDPs to starve.

There are three transportation routes to enter the western part of Demoso. The first route is entering from Loikaw through Nan Ma Khone. The second route is from Taung Ngoo, and the third is from Southern Shan State's PeKhon, Moe Bye, and Pekin Townships. The SAC troops are stationed and blocking the Loikaw route, so it is extremely dangerous and can only be used when the SAC troops open the route for a limited number of days.

The Taung Ngoo route is also dangerous because of SAC forces' presence in Karen State's Leik Tho and Yar To districts. Access to this road depends on conflict situations, as it runs through territory controlled by the Karen National Liberation Army's (KNLA) Brigade 2. Conflict outbreaks frequently stop trucks transporting supplies from Taung Ngoo, causing delays and logistical difficulties in delivering large quantities of food. Currently, the route through Shan State's Pekin, Phe Khon, and Moe Bye districts is the only possible alternative. However, it, too,

has various constraints and conditions, such as restrictions on moving vast quantities of food and security risks.

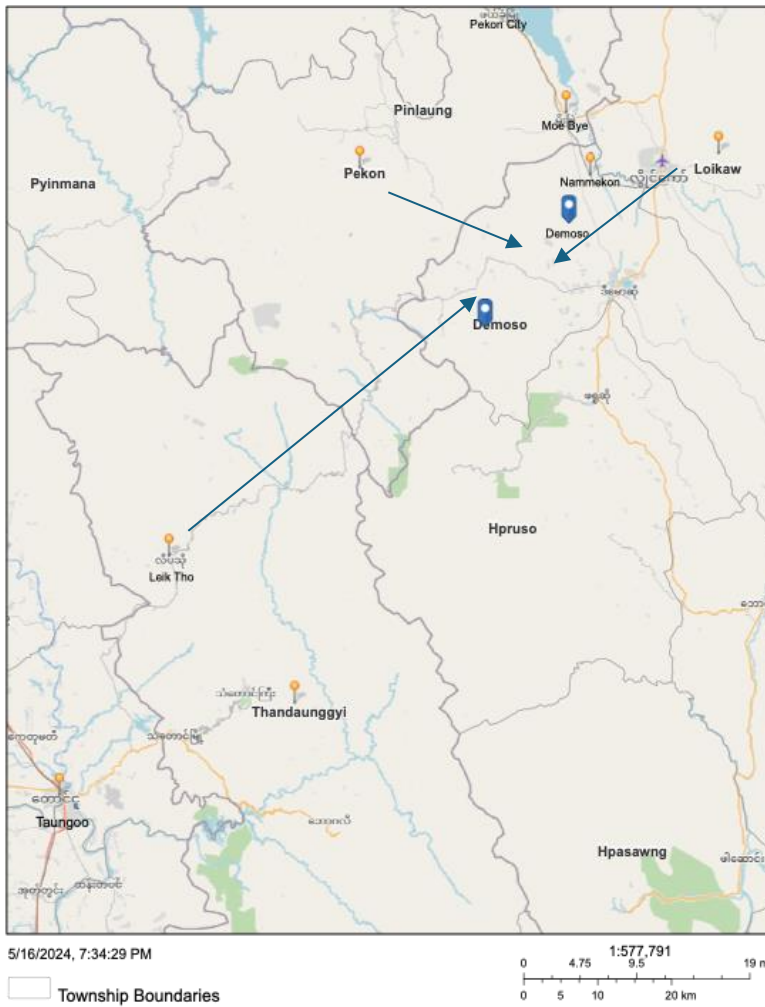


Figure 3- Map Showing Demoso and Nearby Cities for Mobility Access

## **Structural Barriers**

### *State Administration Council*

After the coup, the Myanmar military established the State Administration Council (SAC), taking control of government institutions and ministries, including the Ministry of Social Welfare, Relief, and Resettlement and its Disaster Management Department, which assists conflict-affected IDPs. The SAC has hindered humanitarian aid in Karenni by banning supplies and commodities, arresting and executing aid workers, and carrying out "four-cut" campaigns. Consequently, formal state institutions and state-provided humanitarian aid in Karenni are either nonexistent or deliberately dysfunctional.

Despite its neutrality and independent values to adhere, the Myanmar Red Cross Society (MRCS) is influenced by the SAC. In 2021, MRCS leadership supported by the SAC attended Armed Forces Day, and the SAC rebuilt MRCS leadership with pro-military personnel (Blazevic, 2024). Furthermore, the author pointed out that the SAC transferred MRCS's Finance Department to the Ministry of Health, jeopardizing its independence. This alignment has implications for international humanitarian relief operations. Thailand's "humanitarian corridor" effort in 2024 along the Thai-Myanmar border, executed with MRCS, has generated concerns about its efficiency. Civil society organizations questioned MRCS's ability to assist IDPs due to SAC's possible deterrence, making it unreliable for the IDPs (Progressive Voice, 2024).

Apart from that, since the non-governmental organizations (NGOs) must sign the MoU with the SAC or renew their registration according to the new NGO registration law after the coup, they can only present in areas the SAC allows to operate. In Karenni State, before the clashes in Loikaw, it was the only area where international NGOs, including UN entities, and their aid provisions existed, and such organizations did not cover Demoso.

#### *National Unity Government (NUG)*

Analyzing the reliability of NUG as an institution covering the needs of the IDPs is another pillar of this session. The NUG was formed on April 16, 2021. Until now, 17 ministries have been formed in which the Ministry of Humanitarian Affairs and Disaster Management is mainly in charge of humanitarian relief. NUG's Ministry of Humanitarian Affairs and Disaster Management provided MYK 281.25 million for the Karenni State from April 2021 – April 2022 (National Unity Government of Myanmar, 2022). Within the timeline of January 1, 2023 – December 31, 2023, NUG stated that the ministry has provided MYK 159.7 million for Karenni State (National Unity Government of Myanmar, 2024). However, the ministry's website does not mention the types of aid or the funds they have provided for IDPs in Demoso Township. In addition to financial assistance, the National Unity Government (NUG) has deployed human resources, including Civil Disobedience Movement (CDM) teachers and nurses, to meet humanitarian needs in Karenni State. The Karenni Interim Executive Council (IEC) has also indicated efforts to collaborate with NUG to raise funds for regional humanitarian aid. However, the interview respondents did not widely mention NUG's presence and activities in Demoso. NUG is required to collect firsthand support or collaborate with local Karenni people to effectively conduct aid operations. This implies that, while the NUG's presence and operations in Karenni State are limited, there is room for improvement through more collaboration with local government systems. Strengthening these collaborations could increase the effectiveness and reach of humanitarian aid to IDPs and vulnerable people in Karenni State.

#### *Local Governance Mechanisms*

The Karenni people's local government mechanism is an important entity that has emerged following the coup. The Karenni National Progressive Party (KNPP) and local government units are critical in providing IDPs with immediate humanitarian assistance. On June 12, 2023, the Interim Executive Council (IEC) was established for leadership and serves as the interim state government, with 12 departments. The IEC evolved from the Karenni State Consultative Council (KSCC), established on April 9, 2021, to unify resistance movements and provide political leadership. Paving towards localization amid conflicts is the most effective way to handle the issue of humanitarian needs since it gains widespread support and trust from the local Karenni population. However, it encounters various barriers and limitations at the institutional, state, and international levels.

At the institutional level, the primary barrier is that while militarily facing the SAC, the responsibility of state-building and responding to conflict-induced humanitarian catastrophes are also on the shoulders of the IEC. The IEC is newly established with a very limited financial capacity. Moreover, as the majority of the Karenni youth population is found in local armed forces or at IDP camps or becoming refugees in Thailand, human resources is also another limitation of IEC.

At the domestic level (state level), Karenni state's administrative system and aid efforts face some challenges due to the diversity of its local armed groups. The Karenni State is home to several long-standing armed factions, including the Karenni National Progressive Party (KNPP)/Karenni Army (KA), Karenni Nationalities People's Liberation Front (KNPLF), and Kayan New Land Party (KNLP)/Kayan New Land Army (KNLA), as well as the newly formed Karenni Nationalities Defence Force (KNDF). This diversity affects efforts to develop a uniform local governance system, which is required for successful humanitarian cooperation and inclusive governance. Western Demoso's territory is divided between these different groups. Creating political unity among various groupings remains a difficult task. The IEC collaborates with the KNPLF to facilitate collaborative humanitarian work in KNPLF-controlled territories. Nevertheless, the KNLP's reluctance to participate in the IEC raises unresolved political issues in the Karenni state that must be addressed to provide comprehensive state-level governance and humanitarian response.

Lastly, at the international level, the quest for legitimacy and subsequent collaboration with neighboring countries, including Thailand, the only country in proximity to Karenni, remains a significant obstacle to the IEC. However, when it comes to the legitimacy crisis, the international community, including Thailand and ASEAN, hesitated to recognize or officially collaborate with the alternative governments, which are NUG and the ethnic local governments. Thailand's stance is reflected in its recent initiatives of delivering 4,000 relief bags via the Myanmar Red Cross Society (MRCS) channel (Ministry of Foreign Affairs, Kingdom of Thailand, 2024). The local

civil society organizations, including the ethnic communities, jointly objected to this initiative and repeatedly called for cross-border humanitarian assistance (Progressive Voice, 2024). However, Thailand and ASEAN do not acknowledge this proposal but stick to collaborating with formal state mechanisms. Hence, it can be analyzed that in the current Myanmar crisis, the international community still uses formal international relations procedures and diplomacy, which results in questionable outcomes. Young people's initiatives and creative ways of resistance shape the contours of Myanmar's Spring Revolution. However, the international community, including the United Nations and its agencies, still responds to Myanmar's situation in the same traditional way of thinking and diplomatic procedures. Therefore, the structural barriers exist on more than just different institutions existing in the current political scenario of Myanmar; the UN and broader international communities find it challenging to act beyond the traditional set-up structures and practices.

## **Conclusion and Recommendations**

The IDPs in western Demoso are facing food insecurity and malnutrition issues due to the discussed barriers, which are mainly conflict-induced barriers and structural barriers that exist due to SAC's politicization of humanitarian aid and indiscriminate attacks. Amidst difficult circumstances, the local aid workers and the local government unit are vital players who most effectively respond to the pressing needs of the IDPs. Therefore, it is recommended that the international community put diplomatic pressure on SAC to neutralize humanitarian aid by allowing the flow of aid delivery freely, permitting international organizations, including UN agencies, to operate in the whole country, avoiding indiscriminate attacks on IDPs and aid workers. Moreover, it is also recommended that the international community shift its approach to utilize the untraditional pathways, such as strategizing the aid flow to Myanmar via cross-border activities by collaborating with local aid workers and ethnic government units. As for further research, it is important to study the human security of Karenni IDP women through the women, peace, and security lens because women are more vulnerable during displacement.



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# THE DEVELOPMENT OF INTELLIGENT CHICKEN HOUSES DESIGNED FOR SPECIAL NEEDS CHILDREN THROUGH A COLLABORATIVE PROCESS THAT INVOLVES MULTIPLE SECTORS

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## **Abstract**

This research article aims to analyze the process of creating an intelligent chicken house that aligns with sustainable development goals and the role of multiple stakeholders in creating intelligent chicken houses for special needs children. The qualitative research methodology involves interviewing stakeholders, including schools, local communities, the Nature Agriculture Foundation, and university faculty (representatives of the public sector). The area where the study and data collection were conducted is Phra Nakhon Si Ayutthaya Provincial Special Education Center, Bang Sai Service Unit. The study found that the process of creating the intelligent chicken houses began with the initiative to address three main issues: 1) the high consumption of chicken eggs by special needs children at the center, 2) the high temperatures, leading to the installation of solar panels to create a water circulation system to provide more relaxed environment for the chickens, and 3) creating sustainability in maintaining the chickens' lives within the houses so they can be happy chickens. Therefore, intelligent chicken houses were built to ensure the chickens are happy and can be raised sustainably, eliminating hunger and using clean energy to create a suitable environment. Regarding the role of stakeholders, various sectors shared resources in building the chicken houses, including the community and the Nature Agriculture Foundation, which contributed labor to build and install the solar-powered water circulation system, and faculties who coordinated and expanded the knowledge on chickens.

**Keywords:** Intelligent chicken houses, special needs children, and sustainable development goals.

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## **Introduction**

Most countries are focused on sustainability, as it is a development objective that can be adapted and applied in various areas and contexts, similar to natural agricultural development. This goal is not only for agricultural and livestock economic purposes but also for enhancing the quality of life for all people.

Phra Nakhon Si Ayutthaya Provincial Special Education Center, Bang Sai Service Unit in Phra Nakhon Si Ayutthaya Province, Thailand, is a facility dedicated to teaching and developing children with developmental delays, providing them with the necessary skills for mental and physical health, as well as cognitive development. The center has a learning space based on natural farming and gardening principles. These principles are incorporated into the children's curriculum, allowing them to connect with nature and practice fine motor skills by helping to grow plants and vegetables, all in line with the Sustainable Development Goals that were established to address issues of various areas through two main objectives: Goal 2 (Zero hunger) and Goal 7 (Affordable and Clean Energy). Zero hunger aims to provide disadvantaged groups with access to nutritious food and sufficient dietary intake, ensuring that everyone has access to food (Arora & Mishra, 2022) and Affordable and clean, which is access to modern or clean energy at affordable prices and achieving sustainability (Carpejani et al., 2020). In the principle of applying the Sustainable Development Goals to the center to create nature therapy for special needs children, the initiative began with the idea that special needs children should have an educational curriculum that involves interacting with nature. These interactions help children develop fine and gross motor skills and experience social interactions through learning with nature and their classmates (Miller et al., 2017; Nabors et al., 2001; Fjørtoft & Sageie, 2000). However, engaging stakeholders is an important aspect of driving local development efforts. Their roles encompass shared resources such as knowledge, skills, and workforce and collaboratively addressing area-specific challenges.

All of the above leads to a focus on studying the processes involved in creating intelligent chicken houses and the collaborative processes involved in constructing intelligent chicken houses under the principles of natural farming, involving various stakeholders who contribute significantly to their successful implementation. Additionally, there is a development that is aligned with sustainable development goals.

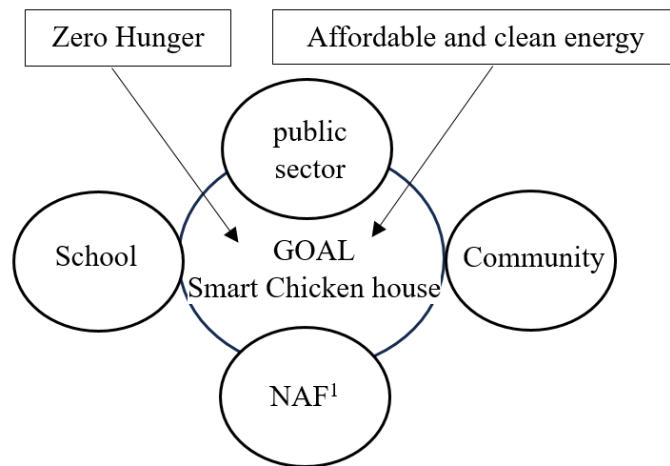
## **Conceptual Framework**

**The Sustainable Development Goals** are development targets that the United Nations (UN) set, comprising 17 goals and the 2030 Agenda. The second goal is Zero hunger, which focuses on food security and sustainability in agriculture. It aims to address and solve issues related to food production (Arora & Mishra, 2022) to eradicate hunger, primarily by ensuring that disadvantaged groups have access to sufficient nutritious food. Additionally, it promotes sustainable agriculture to improve the quality of life and livelihoods by ensuring that agricultural production has adequate land and equal access to technology for effective food production (Wongnaa & Awunyo-Vitor, 2018; Khanal et al., 2021). The seventh goal is affordable and clean

energy, which focuses on ensuring access to modern, clean energy at affordable prices and achieving sustainability through using clean energy (Carpejani et al., 2020; Gad, 2020).

**New public governance (NPG):** This concept presents the government's role in initiating public services by creating collaborative networks involving all sectors. The government's role shifts to that of an initiator, but this initiation process must involve the local community—the roles of other stakeholders who drive the process forward in delivering public services. Additionally, the local community and stakeholders are the recipients of the public services.

Therefore, integrating the concept of Sustainable Development Goals with the concept of New Public Governance (NPG) leads to the development of the conceptual framework for this study, as illustrated in the image below.



**Figure 1: Conceptual Framework (Source: by Author)**

**Note: <sup>1</sup>The Nature Agriculture Foundation**

## Methodology

The study employed qualitative methods at the Phra Nakhon Si Ayutthaya Provincial Special Education Center, Bang Sai Service Unit, using in-depth interviews and participatory observations to learn and understand the issues studied. The key informants, totaling 12 people, included representatives from government sectors (faculties), the Natural Agriculture Foundation, the community, and teachers at the center. This approach aims to facilitate an exchange of perspectives from various stakeholders to develop solutions that address local issues and promote joint development within the area. Data collection was around five months, from January to May 2024. During this period, notes were taken on interview topics and the environment within the center. Data analysis was conducted according to the study's objectives, utilizing descriptive and narrative methods.

## Findings

**First**, creating an intelligent chicken house that aligns with sustainable development goals involves setting targets for reducing hunger and using clean energy through stakeholder brainstorming sessions. The development of intelligent chicken houses began with the involvement of the community, schools, The Nature Agriculture Foundation, and representatives from government agencies joining meetings to gather opinions and exchange ideas on area development issues. The starting point was "initiating with the community's needs and inviting networks to participate in development.". The key issues that arose were: 1) the consumption of a large number of chicken eggs by children with special needs, who require sufficient nutrition for daily development, which has led the school to make efforts to include foods with high egg protein. Despite the cost burden on the center, which must bear this expense, there is a need to raise chickens and utilize egg production to support increased egg consumption within the center. Although the cost of raising chickens may be relatively high, the school partly integrates a curriculum that aligns closely with natural principles. Therefore, there is a need for a learning environment rooted in natural agriculture to provide students with additional knowledge and firsthand experience of nature. This innovative approach aims to derive multiple benefits from various creative avenues of intelligent chicken houses. 2) At high temperatures, solar cells are installed to create a circulating water system and provide shade for the chickens in the area where an intelligent chicken house is built. This open area includes small vegetable plots, but it has a shaded environment suitable for raising chickens. However, during specific periods, the temperature may be relatively high due to the hot season in Thailand, which could prevent the chickens from laying eggs as expected. Therefore, one way to help the chickens stay in a shaded environment is to install a chicken farming system that improves the shade conditions for the chickens. Moreover, this system does not deplete resources within the area because the water circulation system from solar cells operates on solar energy, and 3) creating sustainability in nurturing the lives of chickens within the houses allows them to become happy chickens through the intelligent chicken houses system. This system provides a well-ventilated home and a learning space for natural agriculture. This setup ensures that the chickens live happily. Additionally, having a house that utilizes clean energy to provide a pleasant environment further enhances their well-being. Therefore, the chicken house system not only includes solar cells to create a water circulation system that cools the temperature of the chickens but also features egg incubation areas, rice straw-covered floors, and low-level barriers to provide chickens with space to roam and play.

After a collaborative exchange of ideas, stakeholders worked together to address three main issues and develop solutions, resulting in the intelligent chicken houses. Stakeholders from various sectors were involved from the design phase to the construction of the chicken houses, transforming an empty area into a suitable environment for the chickens. Once the house structure was completed, everyone contributed to summarizing and learning about using clean energy to create a shaded environment for the chickens, ensuring it was practical for the school's circumstances and maintenance without incurring additional costs. Therefore, a water circulation system powered by solar energy was implemented. Solar cells were used to create a circuit system that controls the timing of the water flow. This water circulates over the roof of the chicken houses and is stored in a large tank beside the houses. The operation times are from 10 a.m. to 4 p.m. to create a relaxed and shaded environment for the houses. In the study, solar cells were used to

control the water flow onto the roof to regulate the temperature, measure the temperature within the area, and manage the lighting inside the chicken houses. The Nature Agriculture Foundation also donated rice straws to provide the chickens with a comfortable area to sit and run around, ensuring they are happy in their home. This setup allows the chickens to produce eggs for the children.

The above demonstrates creating an intelligent chicken house that addresses the area's needs through the Sustainable Development Goals, particularly reducing hunger (Zero hunger) through egg production from the intelligent chicken houses. The house uses solar cells to ensure clean, cost-effective energy that the center or school can access at a low cost without wasting resources (affordable and clean energy). Notably, the project emphasizes sharing resources across various sectors of the involved network, including knowledge exchange and collaborative action, to drive this intelligent chicken houses initiative forward and meet sustainable development goals.

**Second**, the driving and demonstrating of roles in resource sharing for collaborative intelligent chicken houses and sustainable development issue resolution began with university faculties (representatives of the public sector) initiating local development projects according to the university's designated strategies mandated by government agencies. Subsequently, the conceptualization and creative development process within the sustainable development objectives commenced, detailing the roles and responsibilities of each stakeholder.

University faculties (representatives of the public sector): The initiative began to create a space for knowledge exchange, collaboratively addressing development issues within the community's needs. This space was achieved through the initial stages of the project, which involved consultation and coordination among various stakeholders. Subsequently, they supported the establishment of knowledge bases and resources for constructing intelligent chicken houses. Faculties and the Nature Agriculture Foundation introduced clean energy for use in chicken houses to address cost reduction concerns and create a 'Happy Chicken' environment where special needs children could learn about experience chicken houses under natural farming principles.

Phra Nakhon Si Ayutthaya Provincial Special Education Center, Bang Sai Service Unit, provided opportunities to integrate natural farming principles within the school environment, allowing special needs children to have learning opportunities and access various aspects of natural farming. They also participated in expressing opinions and exchanging ideas regarding development needs in the area. The goal is to increase the consumption of self-produced or scarce foods while ensuring that chickens can live happily within their houses. This aligns with sustainable development goals.

Local communities participated in discussions to create chicken houses, which benefit egg consumption and enhance children's learning. Furthermore, the solar panels that power the roof water systems are clean energy sources that are accessible cheaply. This sparked discussion and led to active participation in building these chicken houses. Additionally, they received further knowledge on how to raise 'Happy Chickens' from representatives of The Nature Agriculture Foundation. Local communities and parents are also involved in supporting the operation of these intelligent chicken houses.

The Nature Agriculture Foundation was involved in building intelligent chicken houses and creating an environment inside the houses where the chickens can thrive. Additionally, The Nature Agriculture Foundation assisted in installing solar panel circuit systems and calculating the

timing for opening and closing water flow on the roof to prevent water wastage while ensuring a conducive environment for raising chickens, which includes shade and coolness. Moreover, the foundation also contributed by providing additional knowledge on chicken farming, such as preparing chicken feed using natural resources available in the area (e.g., banana trees), understanding the lifespan of chickens, preventing diseases, and ensuring chickens can live out their lifespan.

In conclusion, the initiative to drive the creation of intelligent chicken houses could have been propelled or developed through more than one organization. However, the collaborative efforts of local communities, government agencies, and nonprofit organizations have ensured sustainable development in the area, addressing both zero hunger and affordable and clean energy within the community. Particularly significant is the access provided to disadvantaged groups, especially children, fostering a learning community where children can access nutritional value and dietary knowledge through eggs produced locally. Access to cost-saving energy within the community further facilitates sustainable development in the intended direction.

## **Conclusion**

The research results indicate that the creation of an intelligent chicken house, which emerged from the local need to develop natural farming, particularly poultry farming, addresses consumption issues. This initiative aligns with sustainable development goals by reducing hunger and providing accessible clean energy through solar panels installed on the roofs of intelligent chicken houses. The creation of a house would not be possible without the collaboration of multiple stakeholders, including 1) university faculties (representatives of the public sector) who created the space and engaged in the development area, coordinated collaboration among network partners, doing as both initiators and assistants to ensure the successful completion of the project. 2) Phra Nakhon Si Ayutthaya Provincial Special Education Center, Bang Sai Service Unit, which opened its space and contributed workforce to build intelligent chicken houses, creating an area to produce eggs for local consumption. 3) local communities, who participated by sharing opinions, learning, and exchanging knowledge about poultry farming, and also provided support by taking care of the chickens based on the knowledge gained from The Nature Agriculture Foundation and 4) the Nature Agriculture Foundation, which contributed knowledge on building the chicken houses, installing clean energy, and raising chickens happily. The collaboration of these various stakeholders made the creation and sustainable operation of intelligent chicken houses possible.



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# INTERSECTIONAL VULNERABILITIES: THE IMPACTS OF CLIMATE CHANGE ON FIJIANS OF DIVERSE SOGIESC

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## Abstract

In the Boe Declaration on Regional Security in 2018, climate change was declared as the “single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific”. Climate change poses a serious threat to Fiji as a small island developing state due to rising sea levels and extreme and frequent weather events that disrupt livelihoods and social structures. Certain communities are highly vulnerable to the effects of climate change with existing marginalisation and discrimination. This paper explores the vulnerabilities faced by Fijians of diverse SOGIESC due to climate change. Using the framework of intersectionality and vulnerability, the paper will explore how diverse SOGIESC identities and environmental factors converge to create distinct vulnerabilities for Fijians of diverse SOGIESC. Using secondary research, the paper will highlight how the community is affected before, during and after climate-induced disasters such as evacuation shelters, humanitarian relief and rebuilding efforts. The study will also highlight how the impacts of climate change are compounded by social stigma and legal inequalities. It will also touch on adaptive strategies employed by Fijians of diverse SOGIESC and queer civil society organisations and movements in filling the gaps and opportunities in queer climate change advocacy. The research underscores the need for inclusive climate policies that leave no one behind and have an equitable approach towards the LGBTIQ+ communities. The paper will conclude with policy recommendations to foster inclusive and equitable approaches to climate resilience and adaptation in Fiji that address the multifaceted vulnerabilities of Fijians of diverse SOGIESC in climate change.

**Keywords:** climate change, LGBT, SOGIESC, inclusion, intersectionality, Pacific, policy, vulnerabilities

## Introduction

In recent decades, two critical phenomena have gained significant attention and recognition- the intersection of climate change and the advancement of LGBT (Lesbian, Gay, Bisexual, Transgender) rights and inclusion in development. Climate change poses an unparalleled threat to the planet, affecting communities, ecosystems, and economies

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worldwide. On the other hand, the pursuit of equality and protection of human rights for the LGBT community is an essential aspect of contemporary societal development.

### Fiji and Climate Change

Fiji is an archipelago in the South Pacific comprising over 300 islands. It is one of the more developed countries among the Pacific Small Island Developing States (P-SIDS) and functions as an important regional hub and the base for many embassies, high commissions, and international and regional non-governmental organisations. Fiji's population is predominantly indigenous Fijians, or Itaukei, and Indo-Fijians, descendants of Indian indentured slaves of the British Empire who were brought to Fiji to work on cotton, cocoa, and sugarcane farms. Other major ethnic and racial communities are Rotumans, other Pacific cultures, and descendants of Europeans from colonial times. Over 76% of Fiji's population, both rural and urban, can be considered coastal dwellers, which means a vast majority of services, infrastructure, agricultural production and social centres are located at or near coastal areas (Suratissa & Rathnayake, 2016, p. 11).

The Pacific, as a geographically and culturally diverse region, is a site where climate change impacts are being experienced frequently and intensely. Low-lying atolls are particularly at risk of storm surges and sea level rise, and all island nations are prone to extended droughts, warming sea temperatures, changing rainfall patterns and increased frequency and intensity of cyclones (IPCC, 2022). In the Pacific, climate change and security have been linked due to concerns about projected resource shortages, increasing mobility, and population movement within nations and across the region (Barnett, 2017). The Boe Declaration of 2018 explicitly states climate change as the “single biggest threat” to the region's safety, security, and well-being.

Fiji is particularly vulnerable to the impacts of climate change due to its geographical location and topography. Rising sea levels, extreme weather events, and changes in precipitation patterns present immediate threats to the livelihoods and well-being of Fijian communities. A sea level rise of 59 centimetres, forecasted to occur by 2100, could completely submerge some of Fiji's lower-lying islands. Fiji's economy is primarily determined by the success of the tourism and agricultural sectors. Climate change and rising sea levels pose a direct threat to tourism and agriculture and will likely worsen economic conditions for Fijians, whose standards of living are already considered to be low (Government of Fiji et al., 2017, pp. 82–93).

Fiji's response to climate change is anchored in the Climate Change Act of 2021 which outlines the legal framework to support sustainable development objectives, addressing climate change and adaptation. The Climate Change Division also looks after Fiji's Nationally Determined Contributions (NDCs) and other policies on climate change. Fiji also has the National Adaptation Plan (NAP) and the Disaster Management Act (1998), which outlines the strategy for integrating climate change considerations into national development planning. Fiji

signed the UNFCCC Convention at its launch in 1992 and ratified it in 1993 and was the Chair of the Conference of Parties' 23<sup>rd</sup> Conference in Bonn, Germany.

### SOGIESC Rights in Fiji

Traditionally, many communities in the Pacific, including Fiji, had a defined way of discussing and acknowledging sexual development and diversity that were more acceptable, more than in the Western world even today (Besnier & Alexeyeff, 2014). Emphasis was based on gender rather than sex identities. As such, gendered norms played a role in the expressions and existence of Fiji's third gender. Before colonisation, there was a fluidity in expression and acceptance in society of people and the roles they played in their communities. Culturally gendered identities exist throughout the Pacific, such as the *fa'afafine* in Samoa, *fakaleiti* in Tonga, *raerae* in Tahiti and the *vaka sa lewa lewa* in Fiji (Besnier & Alexeyeff, 2014). These identities may not necessarily conform to the Western concepts of LGBTIQ+.

Fiji is one of the few countries in the world to have provisions for anti-discrimination based on sexual orientation, gender identity and expression (SOGIE) in the 2013 constitution. The women's and feminist movements provided the space and platform for LGBTIQ+ activists to lobby for changes. LGBTIQ+ groups such as *Drodrolagi* Movement, Rainbow Pride Foundation, Haus of Khameleon and DIVA for Equality were some of the few pioneering LGBTIQ+ rights organisations and have played a crucial role in creating safe spaces, promoting awareness, and advocating for the rights of LGBT+ Fijians. Social exclusion, familial rejection, gender-based violence, mental health problems, harassment, access to health facilities and services, workplace discrimination and legal protection of LGBTIQ+ Fijians remain an issue. There are existing social stigma and discrimination from communities, much of it driven by cultural and religious attitudes towards homosexuality and transgender communities based on it being unnatural or immoral (Kumar, 2022).

LGBT Fijians face unique challenges related to discrimination, marginalization, and limited legal protections. Understanding the interplay between climate change vulnerability and the specific vulnerabilities of the LGBT community is crucial for developing inclusive and effective policies to mitigate climate risks and promote social equality.

### **Methodology**

A qualitative research method has been used for this paper, using Fiji country reports, research reports by NGOs, international and regional governmental and non-governmental bodies and agencies, news media, and the researcher's background and knowledge in gender and climate change. While validating the discussions and enriching the recommendations, some comments from scholars, experts, and human rights activists in Fiji and the Pacific were included. The comments were used as a basis to expand on the discussions and incorporate examples, where applicable, to highlight the findings. The research question focussed on was "What are the impacts of climate change on Fijians of diverse SOGIESC?" The primary objective of the paper is to use an intersectional lens on climate change for Fijians of diverse

sexual and gender identities. Secondary sources of data were found through the websites of organizations or repositories of intergovernmental agencies and INGOs. Most of these reports captured real-life experiences that were also used to expand on the findings. While acknowledging the limitations such as time and widely available data on SOGIESC in Fiji specifically, efforts were made to ensure data quality and meaningfulness.

## **Conceptual and Theoretical Framework**

The paper is grounded in two frameworks for data collection and analysis. The first is the Intersectionality Framework. Intersectionality refers to the interconnected nature of social categorisations such as race, gender, sexual orientation, and class, which create overlapping and interdependent systems of discrimination or disadvantage (Crenshaw, 1991, pp. 1241–1299). The Intersectionality Framework emphasises that vulnerabilities are not merely additive but multiplicative. For Fijians, factors such as socioeconomic status, geographic location, and cultural practices influence their exposure and capacity to adapt to climate impacts. Fijians of diverse SOGIESC identities may face additional social stigma and discrimination, limiting their access to resources, decision-making processes, and traditional support networks. The paper will also utilise the Vulnerability Framework, which considers exposure, sensitivity, and adaptive capacity as critical components of vulnerability which allows for a comprehensive assessment of how social, economic, and environmental factors intersect to influence vulnerability and resilience (Gumel, 2022, pp. 22–31). By applying these frameworks, the paper will highlight how these identities exacerbate vulnerabilities and are not experienced in isolation, instead, their combined effects shape how individuals and communities experience marginalisation and oppression. This approach provides a more nuanced understanding of vulnerability and resilience, which is essential for developing inclusive and effective climate adaptation and mitigation strategies.

## **Literature Review**

Climate-induced disasters such as sea level rise and more frequent weather events have a heavy impact on Fijians and the economy. Rising sea levels are contaminating freshwater resources, damaging infrastructure, causing erosion, affecting agriculture, and consuming land (Ciplet, J., & Khan, 2015). Plans have been in the works for some time to have as many as 42 villages relocated from coastal communities (Lyons, 2022). The warming of oceans means increased climate-induced cyclones that have higher intensity. Fiji faced the strongest cyclone of the Southern Hemisphere in 2016, Tropical Cyclone Winston. Since then, Fiji has been battered by multiple cyclones and disasters. The economic and social impacts of large climate-induced events are immediate and severe with long-term consequences (Cox, Finau, Kant, Tarai, & Titifanue, 2018). Forty-four people were killed, and thousands were left homeless in Tropical Cyclone Winston. The Fijian government later announced TC Winston cost the economy around 10% of its GDP (Varandani, 2016). For a country that depends heavily on tourism, this was a major blow to infrastructure and the workforce. In 2020 alone, around 30.7 million people worldwide were displaced within their countries due to weather and climate-

related disasters, including tropical cyclones, typhoons, floods, landslides, wildfires, droughts, and extreme temperatures (The Internal Displacement Monitoring Centre, 2021).

The impact of climate-induced disasters on vulnerable groups worldwide is well documented. While disasters affect everyone, certain individuals and groups bear the consequences differently, based on their social, economic, and political standings (Barkha, 2022). As with any crisis, the effects of climate change are gendered and affect marginalized and vulnerable groups the worst. Decisions around climate adaptation and disaster and risk reduction remain complex in communities within Fiji as it contends with a multicultural, multiracial, and multireligious makeup of its demographics and where cultural sensitivities are a consideration. The gendered experience of climate change and its impacts are also a consideration in any project on climate adaptation. Some key international instruments that look at climate adaptation through a gendered lens are the Beijing Platform for Action (BPfA), the Women's Peace and Security Agenda (WPS), and the enhanced Gender Action Plan from COP 25 (Barkha, 2022). Most of these plans, frameworks and processes look at gender through binary lenses. The consideration of gender and sexual diversity is still lacking in global climate change discussions.

## **Findings**

The research findings can be categorised into six thematic areas in general.

### Lack of (Disaggregated) Data

There is a severe lack of data in research, reports and academic literature on the intersection of SOGIESC and climate change. Gendered research on climate change heavily focuses on the binary gender, and there is no academic research on Fijians of diverse SOGIESC. Research reports by civil societies are scarce and not readily available. The second problem is the lack of disaggregated data. This is particularly relevant during and post disasters as this provides a clear picture for stakeholders in planning relief efforts and rebuilding plans.

### Physical Vulnerability and Displacement

Fijians of diverse SOGIESC face discrimination, marginalization and gender-based violence when it comes to accessing evacuation centres (I. Raileqe, personal communication, July 6, 2024). Due to the binary segregation, transwomen are put into the same space as cis men. This has led to physical violence fuelled by stereotypes and religious, and cultural ideologies. In some instances, transwomen have been asked for sexual favours in evacuation centres and punished for refusing by not being able to access rations or meals. Civil society organizations working in humanitarian responses have narrated stories where queer members have sometimes refused to take shelter in nearby evacuation centres, instead choosing to take refuge in their homes or under them, for fear of a repeat of past experiences of violence in evacuation centres.

## Economic Impacts and Livelihoods Disruption

Pre-existing socio-economic situations are further exacerbated by climate-induced disasters. Many LGBTIQ+ Fijians must build their lives without support from their families and community, and damages caused by cyclones take away the small businesses they build up. A lot of LGBTIQ+ Fijians are involved in the tourism industry, directly as employees of hotels and tours or indirectly through small businesses such as catering, florists, beauticians for destination weddings and performing arts for hotels and tours (I. Raileqe, personal communication, July 6, 2024). Disruptions in the hotel sector disrupt their sources of income and businesses. LGBTIQ+ Fijians who have small businesses of their own do not receive support post-disasters as the government does not have targeted social protection initiatives post-disaster for the queer community.

## Health and Wellbeing

The lack of mental health infrastructure, support and services is an ongoing problem in Fiji. For the queer community, there is no specialized mental health services which cater to the trauma associated with discrimination and marginalization based on their sexual and gender identities. Climate change affects the social determinants of queer health, such as income and social status, social support networks, employment and working conditions, access to health services and health practices and coping skills. Drug use among the queer community also increases to cope with the increased homophobic cyberbullying towards the community by holding them responsible for “God’s wrath” (I. Raileqe, personal communication, July 6, 2024).

People living with HIV (PLHIV) are another group of queer Fijians who are affected by climate change. Fiji has the second-fastest growing HIV epidemic in the Asia Pacific region with an estimated 2000 cases in 2023 of which only approximately 40% have access to antiretroviral therapy (Sudhakar et al., 2024, p. 1). Gay men and men having sex with men are identified as key populations. Climate change affects access to HIV/ AIDs services such as antiretroviral pills, contraceptives, and testing and there is usually a high demand for services from queer sex workers during times of disasters (L, Christopher, personal communication, July 6, 2024).

## Discrimination in Disaster Response and Recovery

Fiji’s lack of inclusive policies and sensitization of relief and aid workers from government agencies and CSOs makes it difficult for queer Fijians to advocate for specialised disaster response. In one instance, a lesbian woman in the private sector was unable to access the spousal support scheme set up by her workplace as the employer did not recognise same-sex partnerships (I. Raileqe, personal communication, July 6, 2024). Despite the anti-

discrimination provision against SOGIE, LGBTIQ+ Fijians are too afraid for job security to raise complaints to authorities in such situations.

### Religious Discrimination

Religious entities are heavily involved in Fiji's disaster relief and humanitarian response. In some instances, queer Fijians have narrated being excluded from receiving rations from religious bodies, not necessarily by religious groups, but by community members who are responsible for distribution. At the same time, queer Fijians are blamed for natural disasters and the destructions caused, normalizing a narrative that being queer is "sinful" and the climate-induced events are "punishment" for queer lives (I. Raileqe, personal communication, July 6, 2024).

### **Discussion**

The lack of data on queer identities or the impetus to research queer identities and experiences is severely lacking and hinders the work of stakeholders in policymaking and lobbying. Collecting data on the realities and experiences of sexual and gender minorities in climate change or any other social issue helps to identify the disparities in policies and processes and the steps to addressing those and is critical in understanding how not only sex but also gender and sexual orientation play a role in the impacts of climate change. The data also support local and community organisations in preparing policy briefs and papers and creating strategies to lobby for policy change with governments and development spaces.

The concept of chosen families is not new with Fijians of diverse SOGIESC. "Chosen family" refers to family groups constructed by choice rather than by biological or legal (bio-legal) ties (Levin et al., 2020). Many Fijians of diverse SOGIESC leave homes to escape different forms of abuse and build informal networks with other queer Fijians or allies either by living together or maintaining social relations among and with each other. These social networks get cut off during natural disasters, giving rise to mental health problems, a sense of insecurity about all forms of violence and a lack of support in coping with the trauma of natural disasters. Natural disasters also push queer Fijians back into households where they face violence to build back from the loss and destruction of natural disasters putting them in harm's way from domestic violence.

In some instances, queer Fijians would choose to live outside of communal and traditional boundaries to not offend family members or based on concerns of safety for their chosen lifestyles (in the cases where they live with same-sex partners). This excludes them from participating, building and being aware of community disaster preparedness programs and having an influencing voice. There is a vicious cycle associated with livelihoods for LGBTIQ+ Fijians. Being bullied in school, some drop out and cannot finish their education which does not offer them a stable form of employment or social security (L. Christopher, personal communication, July 6, 2024). In a traditional setting, Fijians have a communal obligation that extends to monetary contributions in community building. In some instances,



socio-economic situations do not favour the individual or the household, their monetary contributions are significantly less, greatly diminishing their agency and voice to influence opinions and create change. This then goes a long way into the way queer Fijians participate in preparing for disasters in the community or how they may or may not be favoured in relief distribution. The cycle of discrimination and marginalization also affects accessibility to promotions and higher-paying jobs, which impacts the capacity to rebuild after disasters.

Religious discrimination plays a role pre- and post-disasters. Homophobia and transphobia are normalized by demonizing queer Fijians as the culprits that other Fijians faced the disaster and associated destructions. Religious institutions play a role by either fuelling such narratives or keeping quiet when the public uses religion to justify the stigmatisation. On top of building resilience to climate-induced disasters, the queer community must develop mental health strategies to cope with online and offline bullying and various forms of violence as well as secure resources to build back from the destruction caused by disasters.

## **Recommendations**

Based on the findings, the following recommendations can be highlighted:

1. Documenting lived realities and experiences of queer Fijians is essential to build narratives to lobby for SOGIESC inclusion in Fiji's climate change policies. There is also a need to build capacities of stakeholders in the climate change and humanitarian spaces to understand the unique and varying needs of Fijians of diverse SOGIESC so that the development of initiatives and projects can be targeted and needs-specific.
2. The Fijian government must consult a broader range of stakeholders when creating national budgets and implementing climate-related projects. There is a need to upskill service providers such as mental health and other health infrastructure that make it easier for LGBTIQ+ Fijians to access. The government must create targeted sustainable approaches to climate mitigation and resilience. Donor and development partners must streamline SOGIESC inclusion in aid to ensure that diversity and inclusion of LGBTIQ+ is a mandatory cross-cutting issue for government and civil society. This would also ensure documentation of queer narrative that would build up data.
3. There is a need for targeted social protection for marginalized groups through relevant agencies for queer Fijians. The socio-economic situations of many LGBTIQ+ Fijians remain because of widespread stereotypes, religious vilification and stigmatisation. The government and civil society need to collaborate on changing the hearts and minds of people and communities to accept the diversity in sexual and gender identities among them.
4. Religious institutions remain one of the most significant stakeholders in climate change work. On one end, they have the power to change opinions and thought processes. On

the other hand, they have a network in geographical locations that civil society or government offices cannot penetrate. Every town, city, village and island has places of worship connected to the central branches of religious institutions. The passage of information through these religious networks is faster, and their ability to mobilize makes them valuable partners during and post-disasters and in rebuilding and resilience efforts.

## **Conclusion**

There needs to be more research to understand the nexus between climate-induced disasters and queer identities in Fiji with its unique makeup in terms of politics, history, the role of culture and religion and geographical makeup. Being one of the Big Ocean States that will see an increased intensity and frequency of climate-induced disaster, this will be important in keeping with the government's vision and commitment to leave no one behind. Fijians of diverse SOGIESC are an already vulnerable, marginalised and stigmatised group whose livelihoods, existence and agency are further compromised by climate realities. Stakeholders need to recognise the need to provide support and services specific to queer identities to ensure the community thrives and contributes to nation-building. There is much work that needs to be done when it comes to queer rights in Fiji, and it requires support and collaboration from allies as well as those who have perpetrated violence on the community because they are either individuals in power or part of institutions that have power over defining Fijian values and principles.

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# CHINA'S APPROACH TO DIGITALISATION AND OLDER CITIZENS

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## Abstract

This article viewed China's approach to addressing the digital divide among its aging population while pursuing national digital transformation. Thirteen relevant governmental documents plus supplementary sources were selected and processed through qualitative document analysis to interpret China's national strategies for digital development and progressive aging. The findings showed that China has implemented a comprehensive, government-led approach to digital transformation, meanwhile investing efforts in addressing the grey digital divide and promoting the digital integration of older people. Key moves included a government-led digital infrastructure development, engaging vast stakeholders in creating an aging-friendly digital ecosystem, and implementing practical measures such as Senior Universities to enhance grey digital literacy. The findings highlighted China's unique socialist governance philosophy: they view both digitalization and elderly care as critical national interests and progressive moves. China's highly effective administrative power utilization resulted in positive social outcomes, including tech companies commonly undergoing age-friendly modifications and elderly-care-themed project collaborations. China's policy approach may serve as a reference for addressing similar challenges in other countries with aging populations in the digital era.

**Keywords:** Digital transformation, Digital divide, China, Elderly-care

## Introduction

The contemporary world is experiencing a natural process of population aging, especially in the Asia-Pacific region, due to increased life expectancy resulting from economic growth, improved living standards, and healthcare advances (ESCAP, 2022). China, one of the most populous developing countries in the world, exemplifies this trend in the region. By the end of 2022, China's elderly population aged 60 and above reached 280.04 million, accounting for 19.8 percent of the total. While those 65 and over-reached 209.78 million, they counted 14.9 percent of the total (National Bureau of Statistics, 2021). ESCAP (2023) predicts that, by 2050, China's elderly population aged 60 and over will nearly double to 38.8 percent, which will exceed the entire 2022 U.S. population (World

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Bank, 2022). It would constitute the world's third-largest populous country of purely older citizens. Population aging proposed problematic governance challenges to global governments in many terms. Also, a significant critical discussion is how to balance speedy development and elderly care.

China is not only a populous nation with serious population aging but also a significant internet power. By 2023, China had 1.092 billion internet users; 15.6 percent of them were older people aged 60 and over. (CNNIC,2024). In 2010, only 4.8 percent of the 60 and over were internet users, which climbed to 42 percent in 2020 (Dan et al., 2022). From 2020 to 2023, China's urban and rural internet coverage reached 83.3 percent from 76.5 percent and 66.5 percent from 46.2 percent (CNNIC, 2024), indicating that China is now experiencing a progressive digital transformation. However, 317 million people were non-internet users (CNNIC, 2024). By the end of 2022, while 153 million of the total 280 million internet users are 60 and over, the majority of non-internet users were also in this age group, which constituted 39.8 percent of the total non-internet users (CNNIC, 2023, 2024). Statistics imply the fact that China's unignorable digital divides exist nationwide among a vast elderly population.

Since 2015, the Chinese government has issued various guidance documents and policies to promote digital development with national-level effort and investment (State Council, 2015, 2016, 2021), and population aging is another primary governance task (State Council, 2017, 2022a). While prioritizing digital development as a leading national strategy, China also aims to address the grey digital divide among the elderly groups through administrative measures, seeking to integrate their older citizens well into the digital society. These policies and actions are unique and worth studying. This article analyzes China's relevant policies and governmental documents, synthesizing various information sources to provide a comprehensive interpretation of China's approach to digital development and its efforts to actively empower and engage older citizens in the social digital transformation process.

### **Conceptual framework**

Digital literacy and digital divide are the keywords frequently mentioned in China's relevant government policies and documents.

Digital literacy is a broad concept that encompasses the ability to use, understand, and evaluate digital technologies and media, including basic technological skills and complex capabilities like assessing online information, use for creation and innovation, and understanding the socio-cultural impacts of digital technologies (Bawden, 2001; Eshet-Alkalai, 2004). It may be the difficulties faced by the elderly because of inadequate digital

skills and educational possibilities as well as possible biological constraints like cognitive decline (Xie, 2011).

The digital divide refers to disparities and inequalities in ICT accessibility and usage between individuals or groups. Initially, it described differences in device ownership (Taylor, 2022). Over time, it has expanded to include ownership, usage, skill levels, and their relation to socioeconomic factors, such as education, age, gender, and more (Norris, 2001; Van Dijk, 2006; Taylor, 2022). Lately, it has been specified into three levels (Taylor, 2022): 1) Access Divide: Inequality in accessibility (Norris, 2001); 2) Use Divide: Individual variations in digital skills (Hargittai, 2002); 3) Quality-of-Use Divide, or Knowledge Divide (Zhang, 2023): A less measurable aspect referring to how differences in digital awareness and cognition lead to different usage behaviors and utilization quality.

Zhang (2023) stated that the grey digital divide in China is essentially an integration dilemma caused by rapid digital technology evolution, which cannot be completely crossed and eliminated because new forms of digital divide are constantly emerging along the way. He reinterpreted the three divides in China's dynamic social digitalization context, emphasizing digital resource acquisition, digital participation, and digital literacy improvement. Zhang (2023) advocates a cyclical approach with positive interactions to address these critical issues. He emphasized three key points: achieving societal equality and inclusion for digitally disadvantaged elderly groups; establishing a government-led, top-down, diversified, and collaborative support system; and implementing demand-oriented capacity building for the elderly groups. Zhang's (2023) idea emphasized the importance of external intervention, especially government intervention and a government-led approach, to pursue digital equity and ecosystem improvement at policy and governance levels. This framework potentially mirrors the Chinese government's approach to bridging the grey digital divide and empowering older people's digital integration.



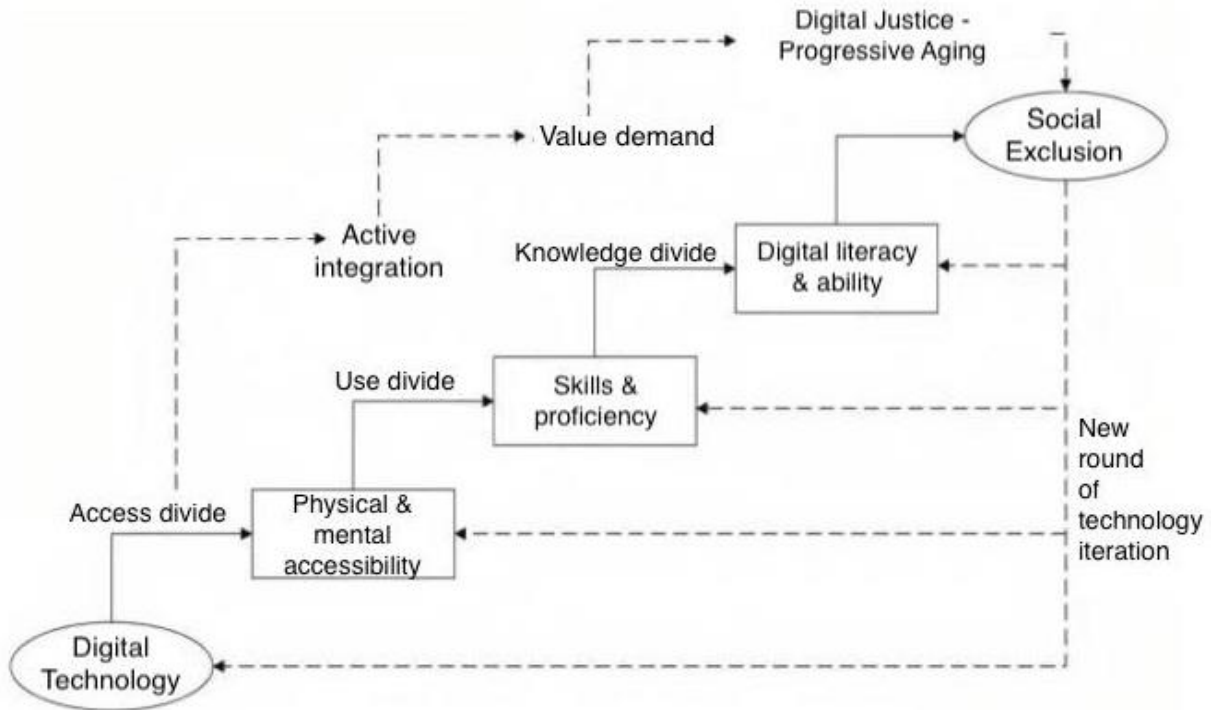


Figure 1. Conceptual model: Logic of grey digital divide's emerging (Zhang, 2023)

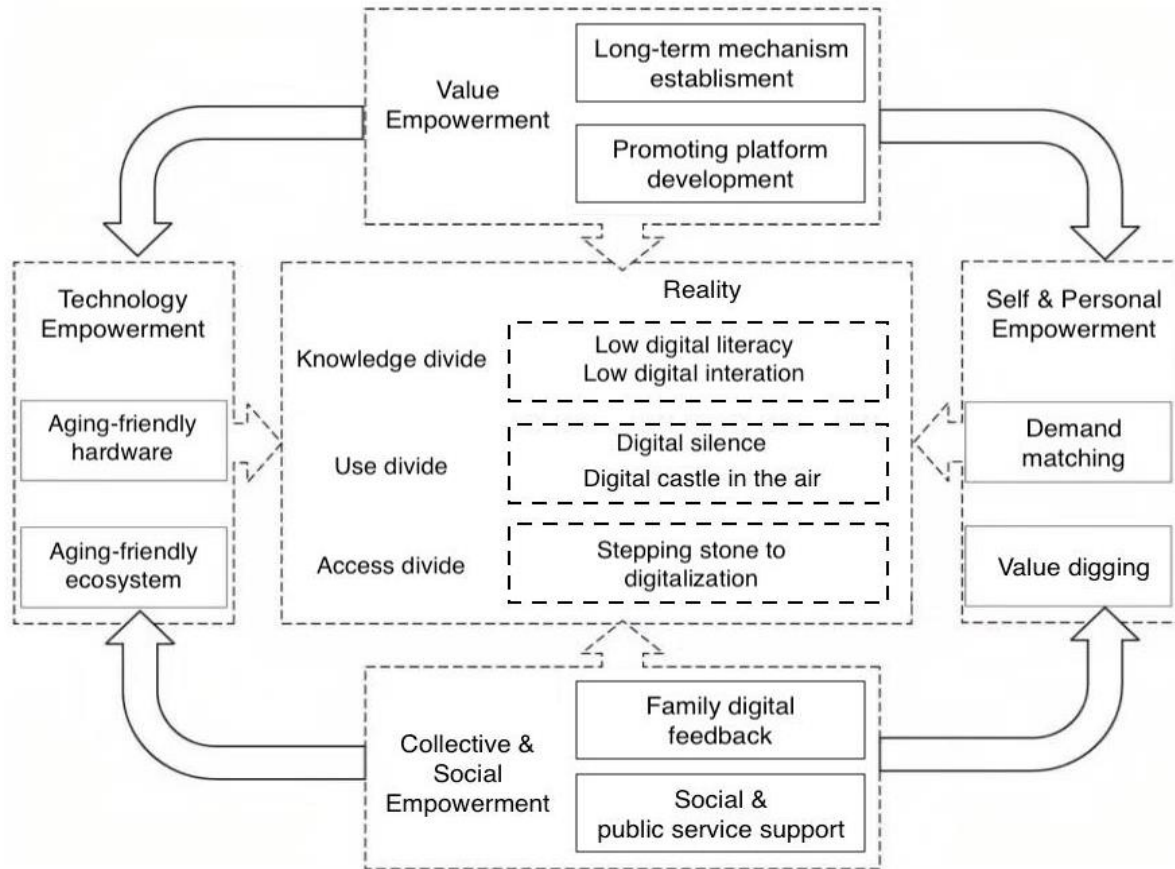


Figure 2. Conceptual model: Governance route to grey digital divide (Zhang, 2023)

## Methodology

This study applied qualitative document analysis, drawing on Bowen's (2009). Document analysis is a qualitative research method that examines relevant documents within a specific context or phenomenon. Bowen (2009) defines it as a systematic procedure for evaluating printed and electronic materials, encompassing a wide range of genres, including textual content, videos, and photos. This method enables researchers to critically analyze meaningful documents to gain insights into contexts or phenomena. Two of Bowen's (2009) five functions of documentary material are particularly significant to this study: documents provide certain means of tracking development and changes, and corroborating evidence from other sources to verify findings.

The targeted documents focused on two themes: digitalization-related and aging-related. Thirteen governmental documents publicly published on the Chinese government's official website served as primary sources, supplemented by academic research and online news articles as collaborative sources. The findings provided an interpretation of China's approach to digital transformation and its initiatives to involve older citizens in the process of social digital transformation.

| <b>Theme 1. Digitalisation</b>  |      |
|---|------|
| <i>Guiding Opinions of the State Council on Actively Promoting the “Internet +” Action</i>  | 2015 |
| <i>National Informatization Development Strategy Outline</i>  | 2016 |
| <i>“13th Five-Year Plan” for National Informatization</i>   | 2016 |
| <i>“14th Five-Year Plan” for Digital Economy Development</i>  | 2021 |
| <i>5G Application “Sailing” Action Plan (2021-2023)</i>   | 2021 |
| <i>Guiding Opinions of the State Council on Strengthening the Construction of Digital Government</i>                              | 2022 |
| <i>Inter-ministerial joint conference system for digital economy development</i>  | 2022 |
| <i>Overall layout plan for Digital China Construction</i>   | 2023 |
| <b>Theme 2. Ageing &amp; Elderly-care</b>   |      |
| <i>Law of the People's Republic of China on Protection of the Rights and Interests of the Elderly</i>                             | n.d. |
| <i>Opinions of the General Office of the State Council on the formulation and implementation of elderly care service projects</i> | 2017 |
| <i>Implementation Plan to Address Difficulties of the Elderly on the Use of Smart Technology</i>                                  | 2020 |
| <i>Opinions of the CCP Central Committee and the State Council on strengthening work on ageing in the new era</i>                 | 2021 |

|  |      |
|--|------|
| "14th Five-Year Plan" for the Development of National Ageing Affairs and Elderly Care Service System | 2021 |
|--|------|

Table 1. List of the selected governmental documents

## Findings

This article has no attempt to discuss China's political system. However, readers should be informed that China refers to the People's Republic of China, a socialist polity by its constitution, and its sole ruling party is the Chinese Communist Party, which practices Marxist-Leninist<sup>2</sup> socialist ideology. In this paper, the State Council of the People's Republic of China is abbreviated as the Chinese government, and the Chinese Communist Party and its Central Committee are abbreviated as CCP<sup>3</sup> and CCP Central<sup>4</sup>.

## China's digital development and active aging policies

To address China's economic challenges in the global digitalization era, the Chinese government has implemented various internet and digitalization-oriented policies. In 2015, the government launched the *"Internet Plus" Action Plan* (State Council, 2015), aiming to promote deep digital integration across various fields and industries to enhance China's long-term economic prospects. The plan targeted phased outcomes by 2018 and envisioned a complete internet-oriented industrial ecosystem by 2025. In the following year, the government and CCP Central jointly published the *National Information Development Strategy Outline* (Chinese Government, 2016), followed by the State Council's release of the *"13th Five-Year Plan" for National Informatization* (State Council, 2016). These documents highlighted the government's deep understanding of contemporary digitalization trends and its commitment to digital innovation and reformation. They also demonstrated the government's resolve to leverage national-level administrative power to engage all societal sectors in this progressive digital transformation process. The plans (Chinese Government, 2016; State Council, 2016) officially positioned digitalization as a national strategy, outlining a comprehensive vision for social digitalization and aiming for digital leadership in the new era.

In 2021, Chinese authorities launched the *5G Application 'Sail' Action Plan* to develop 5G technologies and infrastructure at the state level and seek global lead (Ministry of Industry and Information Technology, 2021). The national strategies related to 5G have already led to some political frictions and trade disputes between China and other countries.

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<sup>2</sup> As written in China's constitution, China and the CCP's major ideologies are Marxist-Leninism, Maoism, Deng Xiaoping Theory, and Three Representatives.

<sup>3</sup> CCP refers to the Chinese Communist Party. It can also be written as CPC (the Communist Party of China).

<sup>4</sup> The Central Committee of the Chinese Communist Party is the party's highest organ of authority and also performs as the country's highest organ of authority when the national congress is not in session.

The following *14th Five-Year Plan for Digital Economy Development* (State Council, 2021) affirmed satisfactory results from previous plans and further aimed to advance the digital economy by optimizing digital infrastructure, accelerating informatization, promoting artificial intelligence, and enabling the comprehensive digital transformation of public services and traditional industries. Subsequently, the government and CCP Central co-published the *Overall Layout Plan for Digital China Construction* (Chinese Government, 2023), emphasizing the critical importance of China's digitalization and competitiveness in the fourth industrial revolution for socialist modernization and national rejuvenation. Also, the government issued two documents on promoting the e-government and joint governance system for the digital economy (State Council, 2022b; 2022c). Additionally, the Cyberspace Administration of China (CAC) annually published the *Digital China Development Report*, officially providing staged progress on China's digitalization development.

The Chinese government views digital transformation as a significant national strategy while addressing population aging and elderly care as a fundamental governance task within its socialist ideology. In 1996, China enacted the *Law on the Protection of the Rights and Interests of the Elderly* (State Council, n.d.), which has undergone four revisions over the years. In 2017, the government issued *Opinions on Implementing Elderly Care Service Projects* (State Council, 2017). Following the COVID-19 pandemic, in 2021, the CCP Central Committee and the government jointly released *Opinions on Strengthening Ageing-Related Work in the New Era*, elevating progressive population aging to a national strategy. This document includes initiatives such as integrating elderly education into the lifelong learning system, establishing the National Senior University, creating an official and nationwide platform for sharing elderly education resources, and emphasizing the protection of elderly citizens' rights in the digital society.

These documents reflect the Chinese government's socialist ideology and unique governance philosophy. They view digitalization and elderly care as progressive initiatives, positioning them as crucial national strategic interests. The government's approach demonstrates a commitment to advancing societal, national, and ethnic progress as a core spirit. By elevating both digital transformation and elderly care to the status of crucial national strategies, China's leadership aims to address contemporary challenges while adhering to its ideological principles.

### **Empowering older citizens in a digitally transforming society**

Numerous studies and statistics have shown that older people are a marginalized group in digital settings or there is a digital-vulnerable group compared to younger people (Loges & Jung, 2001; Dunahee & Lebo, 2016; Dutton, Blank, & Groselj, 2015; Friemel, 2014; Lu & Wei, 2021). While the Chinese government's digitalization policies have

shown positive effects in majorly bridging the access divide, the fundamental nature of the digital divide is incremental and evolutionary: it continually evolves in new forms, eliminating it is almost impossible (Zhang, 2023). The COVID-19 pandemic starkly revealed this digital divide affecting older people. As part of e-governance measures, China implemented mandatory digital pandemic control, including the Health Code for risk monitoring and movement tracking (Gan & Culver, 2020), and cashless payments became the new normal (Yuan & Jia, 2021). These measures created significant challenges for elderly groups lacking internet access or smartphone skills, depriving them of basic life needs like mobility, transportation, and shopping (Song et al., 2021). Lockdowns and home isolation reduced social participation among older people (Jang & Je, 2022), while the inability to use smartphones for communication exacerbated their social isolation and unnecessary loneliness (Lee, 2019; Llorente-Barroso et al., 2021). This situation negatively impacted their psychological well-being and overall quality of life, intensifying the harmful effects of the digital divide on the elderly population (Song et al., 2021; Yuan & Jia, 2021).

The premise of the academic discussion is that the phenomenon was already a national-wide public emergency, which triggered extensive public attention and criticism (Legal Daily, 2020). Whether from public criticism or the policymaker's self-reflection, the emerging negative social phenomenon contradicted the Chinese government's socialist ideological principles and governance philosophy. In response, the government timely issued the *Implementation Plan to Address Difficulties of the Elderly in the Use of Smart Technology* (State Council, 2020). In its preamble, it acknowledged that elderly groups were facing digital crises in daily activities such as travel, consumption, and healthcare due to their inability to use the internet or smartphones. The Plan (State Council, 2020) declares its guidance by Xi Jinping Thought<sup>5</sup>, fully implementing the CCP's people-centered<sup>6</sup> governance philosophy. Essentially, it is an executive order. It assigned specific tasks to government agencies and departments at all levels nationwide, mandating that they must not neglect and must resolve the difficulties encountered by the elderly groups in utilizing digital technologies while addressing pandemic control needs. Key directives include prohibiting exclusive use of health codes for public access, ensuring alternative options for older people, maintaining manual services and cash payment options in public transportation and health care, ensuring humanitarian support for quarantined elderly, especially those lacking digital access, optimizing online services with elderly-friendly interfaces and improved security, and preserving in-person government services alongside digital options. Developing digital literacy training programs for older people is

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<sup>5</sup> Xi Jinping Thought on Socialism with Chinese Characteristics of a New Era, an ideological doctrine that combines China's Marxism and national rejuvenation, had been written in China's newest constitution edition in 2018.

<sup>6</sup> China's constitution stipulates that all state power belongs to the people. CCP's constitution stipulates that the party is to serve the people. Similar phrases are also seen in Maoism, Deng Xiaoping Theory, Three Representatives, and Xi Jinping Thought.

also recommended, increasing network coverage, lowering costs, and endorsing ageing-friendly digital devices and applications.

The Plan (State Council, 2020) shows the Chinese government's commitment to addressing the growing digital disparities and issues affecting senior citizens, as well as its active pursuit of social justice and inclusivity.

### **Positive outcomes**

The Chinese government's policies and initiatives have garnered widespread responses and support from society. The newest official statistics indicate that over 140 million smart devices, including smartphones and smart TVs, have undergone age-friendly modifications (CNNIC, 2023). Alibaba Group, the parent of China's largest e-commerce platform Taobao, proactively adapted fifteen of its products related to online shopping, food delivery, entertainment, and social networking to be more age-friendly (Alibaba Group, 2022; Hangzhou Daily, 2022). The most noticeable changes include simplified interfaces and enlarged fonts in elderly-friendly and accessibility modes. Additionally, Taobao introduced a "family account" feature, enabling family members to assist older people with convenient communication and payments. Alipay launched a "senior care" mini-program that integrates practical functions such as quick QR code payments, online bill payments, and online medical service appointments (CNR, 2020). WeChat, China's most popular instant messaging platform, operated by Tencent Group, introduced an "elderly-friendly" mode featuring fraud alerts, bigger fonts, and reduced pop-ups. Tencent also organized offline digital training sessions for older people, where student volunteers taught skills such as booking tickets, taxi services, payments, and banking via smartphones (Tencent, 2021). Tencent also launched a WeChat mini-program called "Smartphone Lessons for the Elderly," providing online digital education (Tencent, 2021). This program is a component of the "Silver Age Plan," a cooperative endeavor with other social welfare groups that seeks to assist 10 million senior citizens in three years in acquiring digital literacy (Tencent, 2021). Tencent has established extensive partnerships with local governments and social organizations, addressing various aspects of digital elderly care and fraud prevention for older adults (CNR, 2023a; CNR, 2023b; South CN, 2023). While Tencent and Alibaba are selected as exemplary cases here, many other unmentioned ICT companies in China also have made similar efforts.

At the government implementation level, the National Seniors University project, established by the Opinion (State Council, 2021), now has 80 branches nationwide, as listed on its official website, offering both offline and online courses. The digital training course curriculum includes basic smartphone operations, typing, using WeChat, accessing e-books, and enjoying music (The Seniors University of China, 2024b). It even offers C language programming courses for older people (The Seniors University of China, 2024a). The above evidence shows that the Chinese government's policies have begun to yield

results, creating a supportive social environment that empowers China's older citizens to adapt to the digital society.

## **Conclusion**

Our world has entered a digital era, with digital technologies and artificial intelligence advancing rapidly. Global governments and societies face the dual challenge of addressing the digital divide for vulnerable groups while advancing digital transformation. The real-life cases demonstrated that rapid digitalization inevitably creates new digital divides or exacerbates existing ones, particularly affecting vulnerable groups like older people. China presents a notable example where government-led digital policies have effectively promoted social digitalization, digital economy development, and digital governance. The Chinese government has also implemented up-to-trend policies to empower older citizens' digital interaction and efforts to create a digitally inclusive, age-friendly society.

China's approach offers valuable insights: developing robust digital infrastructure to address the first-level digital divide; engaging governmental and social stakeholders to create an elderly-friendly digital ecology, addressing the second-level divide, and empowering elderly groups through practical initiatives like senior universities to tackle the third-level divide. These progressive and iterative administrative measures have brought tangible results.

A key challenge for foreign researchers studying Chinese policies is the highly political language of government documents. The author, leveraging native Chinese language skills, has provided an initial interpretation of relevant policies, presenting this article as a comprehensive analysis in a logical order. This work hopes to benefit future research on relevant topics.



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# ANALYSIS OF MYANMAR PEACEFUL ASSEMBLY AND PEACEFUL PROCESSION ACT UNDER INTERNATIONAL STANDARDS

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## Abstract

The Peaceful Assembly and Peaceful Association Law in Myanmar was established as a regulatory framework to facilitate the exercise of freedom of expression, particularly through peaceful demonstrations and associations. Enacted initially to create a legal foundation for such activities, the law underwent significant amendments in 2016. These amendments were initially perceived as progressive, incorporating several improvements aimed at better aligning the law with democratic principles. Despite these advancements, the revised law still encompasses numerous provisions and sections that remain significantly restrictive. During the administration of the National League for Democracy (NLD) from 2016 to 2020, this amended law was extensively utilised to criminalise human rights defenders, ethnic minority leaders, and peaceful protesters. These restrictive measures are designed to control and limit freedom of expression rather than to protect and promote it. This paper argues that the Peaceful Assembly and Peaceful Association Law curbs freedom of expression and maintains governmental control over public, rather than upholding the rights enshrined in international human rights norms. The paper provides an analysis of the restrictive provisions within the law. Furthermore, it compares the legislation with international standards and norms related to freedom of expression, including the permissible restrictions as outlined by international human rights instruments. This study is conducted through the desk review of the law, the international instruments and norms, and secondary data from international and national headlines. This comparative analysis aims to highlight the discrepancies between Myanmar's national legislation and the globally accepted principles that safeguard freedom of expression, thereby emphasizing the need for further legal reforms to align Myanmar's laws with international human rights standards.

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**Keywords:** Freedom of Expression, Myanmar, Peaceful Assembly, Legal Analysis, Human Rights

## **Introduction**

Under the governance of the National League for Democracy (NLD), individuals were subject to arrest, sentencing, and imprisonment for engaging in peaceful and anti-war protests and demonstrations of various forms. Notable instances include a solo anti-war protest (Nay Aung, 2017), the recitation of a poem (Thu Thu Aung, 2018), presenting a broken scale to a judge as a symbol of judicial distrust (Mung San Aung, 2019), and large-scale group protests (Thu Thu Aung, 2018), among others. These legal actions were enforced through the Peaceful Assembly and Peaceful Procession Law, which underwent amendments in 2016.

The Peaceful Assembly and Peaceful Procession Law, as revised in 2016, was promulgated on October 6, 2016, by the elected NLD government. This amendment modified the original legislation from 2011, which required obtaining prior authorization from the Chief of the Township Police Force at least five days in advance, allowing discretionary denial. The 2016 amendment eliminated this requirement, substituting it with a mandate for a two-day advance notice. Despite this adjustment, the amendment has not facilitated the uninhibited exercise of freedom of expression. Instead, the legal ambiguities and loopholes have led to increased arrests and convictions concerning freedom of expression in Myanmar. This paper will critically analyse the provisions and sections of the law that curtail and restrict freedom of expression, contrasting them with internationally accepted norms and standards.

## **Methodology**

This study utilizes a desktop review methodology to investigate the legislative framework and its impact on freedom of expression in Myanmar, focusing specifically on the Peaceful Assembly and Peaceful Procession Law (2016). The desktop review approach involves gathering and synthesizing existing literature, legal documents, and offer an analysis of the subject. Secondary data were collected from various sources, including legislative documents, scholarly articles, national and international news, reports from organizations dedicated to freedom of expression, non-governmental organizations, and publications from international entities such as Human Rights Watch. Primary legal document, originally in Burmese, was translated into English using terminology consistent with the sources above to convey the original meaning accurately.

The collected data were analysed using a qualitative content analysis methodology. Initially, the legal framework was examined in depth, and the data were then thematically organized based on the theme and patterns. The content was subsequently coded to identify patterns and themes corresponding to the text segments. These patterns identified in the Peaceful Assembly and Peaceful Procession Law were then compared and analysed against international

laws and standards organizations such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The findings from various sources were synthesized to create a narrative coherent with the paper outline.

### **Overview of the Law of Peaceful Assembly and Peaceful Procession Act**

The ambiguous provisions, inadequate regulations and guidelines, and excessively constraining sections of the Peaceful Assembly and Peaceful Procession Law have resulted in the arbitrary apprehension and confinement of individuals exercising their rights to freedom of speech, peaceful assembly, and association in Myanmar.

Chapter 1, Section 2 (a) defines a citizen, and Section 3 (b) states the legal aim of protecting Myanmar's citizens' fundamental rights to express themselves and participate in peaceful processions freely. It is important to note that the Myanmar Constitution's ethnicity-based citizenship eligibility has caused statelessness and the exclusion of a large portion of the population. According to Arriaza and Vonk (2017), the 2008 Myanmar Constitution and 1982 Citizenship Law grant citizenship rights only to 135 ethnic groups, although there are more than 150 ethnicities. Thus, stating that only citizens can request procession or assembly notification has already discriminately excluded certain ethnicities residing in Myanmar regarding freedom of expression.

Sections 2 (c) and (d) define peaceful assembly and procession. The definitions of peaceful and non-violent march or gathering are based on legal compliance with the following provisions. Some legislative measures impose excessive restrictions, which will be discussed in the following sections. Since 'peaceful' is internationally defined as the absence of any intention to use, endorse, or incite violence, including this clause in the definition of peaceful assembly and procession may limit its scope (CCPR/C/GC/34). Thus, the current definition only partially protects and recognizes freedom of expression and assembly. Subsections (e) and (f) restrict the meanings of "poster" and "signboard" by requiring that their content not violate an individual's dignity. Again, this limits communication content and technique. The legal definition of "Harming the dignity of a person" and the people included are not defined. This concept's ambiguity permits the Myanmar legal system to restrict freedom of expression, including political and military protests.

In Chapter 2, legislative aims were stated. They are ensuring state security, protecting law and order, promoting community harmony and tranquillity, and promoting public morals. According to the 2008 Constitution, "the prevalence of law and order" means rule by law under "The Union Government" (Art. 219). Subsections (b) and (c) protect citizens' freedom of expression and protect them against risks, threats, and barriers. This reflects the state's stance concerning the principle of freedom of expression. In other words, the prevalence of law and order is a priority in the legal framework rather than the protecting freedom of expression. Furthermore,



individuals who seek to restrict the extent of their rights can use the term obligation (Gunatilleke, 2020). Myanmar's laws prioritize state security, law and order, community harmony and serenity, and public morals over free speech.

Additionally, some parts of this recently modified legislation infringe the right to free speech and are irrelevant for protecting it. The provisions demand the information such as the procession's primary objective and speech that will be delivered (Section 4(a)). The state additionally demands the speaker's contact information (Section 4(c)), the procession's plans (Section 4(d)), and the negotiated agreement on this legislation's requirements and the accountable individuals or organizations' predetermined conditions under local requirements. The former amendment intended to eliminate the need for authorization, but the current amendment retains it. The authority has power over processions and assemblies under Section 4, subsection (f). According to Section 13 of the "Regulations relating to the Right to Peaceful Assembly and Peaceful Procession, July 2012 (Order No. 364/2012)," the Township Police Force Commander must consult with the Township Governor before drafting restrictions. Submit the recommended limits to the Divisional or State-level Police Commander through the District-level Police Commander.<sup>2</sup> Consequently, the Divisional or State-level Police Commander and Township Governor decide how to have a procession and assembly. The requirement to submit the preliminary negotiated agreement to follow local laws shows that the government can manage public meetings and demonstrations. Authorities can demand context adjustment and regulate procession. If the police find it unlawful, the parade or demonstration may be illegal. Therefore, the parade or rally may be illegal.

Section 8-12 of the law restricts peaceful processions and gatherings. Sections 8 and 9 outline venue limits, requiring the assembly and procession to take place only in the designated location to avoid public disruption. Section 9 allows the previously notified procession path. The Collins Dictionary defines "allow" as granting permission or aiding an activity or possession. This law defines freedom of expression as a "claim right" rather than a "liberty." The word "claim right" refers to the obligation of another person to execute or abstain from a given activity, whereas "liberty" means the lack of any opposing obligation (Gunatilleke, 2020).

Section 10 adds limits. Protesters face subsection-specific restrictions. They cannot prevent, disrupt, harm, pressure, or persuade (Bergen, 2012). Thus, "exert pressure on" or "persuade the general public" limits protests and demonstrations. Subsection (d) forbids words or actions undermining the Union, ethnicities, religions, or individual dignity. Subsection (e) forbids distributing false information. Discriminatory comments or actions that injure a person's reputation are prohibited. Subsections (b) and (c) ban environmental pollution and traffic obstruction,

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<sup>2</sup> These regulations have been made under Article 24, Section (A) of the Right to Peaceful Assembly and Peaceful Procession Act. 5 July 2012 (Order No. 364/2012) by the Ministry of Home Affairs.

respectively. Flags, posters, placards, slogans, and chants (subsections (f) and (g)) without prior notice are likewise forbidden.

The restrictions further criminalize and limit free speech. Chants and messages must be approved by the authority at the planned venue and procession route. The subjective character of aspects like 'harm' in subsections a, b, and h allows for a broad interpretation of the term because it is unclear. Similarly, 'annoy' and 'obstruct' raise vagueness. Section 12 allows the governing authority to disperse the gathering if any conditions are violated. Section 2 (f) addresses infringement on an individual's dignity, Section 3 (c) addresses expressions that may endanger, harm, or hinder others, Section 10 (a) addresses speech and behaviour that disrupts and causes harm to another, and Section 10 (d) addresses speech that may harm the Union's integrity. Section 10(a) pertains to speech and behavior that disrupts and causes harm to another individual. Section 10(d) addresses speech that may damage the integrity of the Union, nationalities, religions, or the dignity of individuals, among other concerns. The interpretation of these provisions may vary subjectively based on an individual's demographic background and cultural context, given that Myanmar is a Burmese-Buddhist majority country. Imperfect legislative rules in Myanmar can be traced to the 2008 Constitution or Revolutionary Council Law No. 22/1973. However, the laws do not expressly define the requirements, allowing police the power of interpretation.

According to Sections 15 and 16, law enforcement can disperse a crowd participating in a demonstration or assembly without a warrant. Similarly, all officers can arrest violators without warrants. The British-era common law system in Myanmar classifies most crimes with a minimum 3-year sentence as cognizable. This violation is rarely cognizable because the Peaceful Assembly and Peaceful Procession Law imposes a three-month maximum sentence. There are no violent restrictions or regulations. Hence, crowd dispersion regulation is not stated. Mainly, section 16 prohibits excessive force. However, the phrase does not specify the weapon used to disperse the crowd. This article takes an unclear stance, allowing police to use force and violence to regulate crowds.

Dispersing a crowd may violate the right to freedom of expression, peaceful assembly, and physical integrity (Human Rights Council, 2016, para. 61). Sections 19 and 20 allow for 1-month and 3-month sentences for breaking Sections 8, 9, and 10 or neglecting to notify authorities.

The Ministry of Home Affairs created "Regulations on the Right to Peaceful Assembly and Procession, 5 July 2012 (Order No. 364/2012)" in 2012. From 2016 until 2020, it was used as a reference despite its 2016 revision. Regulations eligible for the new amendment were still in effect. Article 24 of the Regulation states that when processions are protected by police jurisdiction, the number of police officers assigned must match the crowd size. Again, no precise facts or extra information of this size are stated, leaving interpretation to the police.

In summary, the vague provisions, lack of proper regulations, and restrictive clauses of the Peaceful Assembly and Peaceful Procession Law have led to the arbitrary arrest and detention of people exercising their rights to free expression, peaceful assembly, and association in Myanmar.

### **Under the Lens of the International Norms and Standards**

International human rights principles such as Article 19 of the International Covenant on Civil Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR) ensure freedom of expression transnationally. Any non-violent political, scientific, historical, moral, or religious position should be acknowledged and protected.

The term "Peaceful Assembly and Peaceful Procession" is defined in the law as "Citizens or Organizations peacefully processing according to the law and procedures in the permitted public areas to express the opinion, belief, and so on." As mentioned, this privilege is exclusively available to citizens. Therefore, non-citizens who peacefully protest or demonstrate without membership in recognized groups are not entitled to it. International law indirectly addresses human rights, nationality, and self-determination. "... Under that right, they freely determine their political status and freely pursue their economic, social, and cultural development," reads ICESCR Article 1. However, international norms are considered fundamental regardless of nationality. The Universal Declaration of Human Rights preamble states that Articles 19 and 20 ensure freedom of expression and assembly "... both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction." Therefore, the law does not recognize the inalienable right to freedom of expression under international law.

Second, national law restricts freedom of expression to opinions that jeopardize public morals, law and order, community peace, and state security. There are also excessive restrictions and limitations set within the legal framework, as discussed. In comparison, the international standard allows limitations for rights violations when the speeches and expressions promote hostility, incitement to violence, and discrimination (CCPR/C/GC/34). Moreover, section 3 (a, c) of the law restricts expressions that endanger, injure, or obstruct others. Instead, OSCE defined a peaceful assembly as "the conduct or expression that may annoy or give offense to persons opposed to the ideas or claim that it is seeking to promote and even include conduct that temporarily hinders, impedes, or obstructs the activities of third parties" (OSCE, 2010, Para. 26).

Section 4 of the national law requires 48-hour notice. Provide the purpose, location, date, time, chanting slogans, and the primary subject of the protest or demonstration; contact information for the person providing the notification, the leader, and speakers; the program agenda and expected participant count; and the processional path. Internationally (OSCE, pg. 17) (UNHRC, 2016, para 21), notification should not be necessary for gatherings with low anticipated number of participants or a low anticipated public impact. This shows how national legislation and international notification norms differ.

Police can disperse protesters if they are causing obstruction, annoyance, danger, or concern that these things could happen, damage government, public, or private property, or pollute the environment. As "might take place" is unclear and gives no room for explanation, the police can disrupt or disperse assemblies they oppose or that may cause them trouble. In contrast, the international standard (UNHRC, 2011, para. 35) elaborates on the necessity to show and establish a direct and immediate connection between expression and the threat. Additionally, the Principle of Proportionality should govern the dispersion of crowds (UNHRC, 2011, para 34). In Myanmar, if a crowd violates the Bill, existing laws will be enforced until the crowd disperses. Authorities are not required to issue warnings under Section 12, and the lack of notification under the Bill justifies the dispersion.

In summary, Myanmar's legal framework imposes significant constraints and restrictions on the right to freedom of expression compared to international standards. The definitions and limitations allow law enforcement to criminalize the exercise of freedom of expression, while further restrictions hinder the population's access to this fundamental right.

### **Permissible Restrictions and the Peaceful Assembly and Procession Law**

International norms prescribe permissible limitations on the exercise of freedom of expression. This section will analyze the restrictions specified in the Peaceful Procession and Protest Law, examining the scope of legal protections, the nature and objectives of the activities, and the expected conduct of the demonstrators. These limitations will then be compared with restrictions considered acceptable under international standards.

Several restrictions are imposed based on a person's nationality, specifically their ethnicity. Individuals who do not possess citizenship are not afforded legal protection. Similarly, there are restrictions placed on associations that lack legal authorization, such as the prohibition of using flags associated with unlawful organizations. However, the total limits encompass approaches that can be classified as content-based restrictions, restrictions on the activities and behaviours of protestors and/or processors, and restrictions resulting from the requirement for approval.

Moreover, there are limitations imposed on the content and vocalizations that are conveyed. These limitations encompass the following: Engaging in speech or behaviour that has the potential to harm the nation, a particular race or religion, undermine human dignity and moral values (Section 10(e)); Disseminating false information or rumours (Section 10(f)). Prior notice should be provided regarding the wording and the material that will be shown. The authority has the discretion to deny approval for this notification, meaning they have the power to prohibit assemblies, processions, and protests based on the substance of the activities.

Furthermore, there are limitations placed on how the demonstrators express themselves and conduct themselves. Individuals are forbidden from engaging in any activity that may cause disruption, obstruction, annoyance, danger, or give rise to the possibility of such occurrences

(Section 10(a)); Conduct themselves in a manner that could harm the government, public, or private property or the contamination of the environment (Section 10(b)); Impede or disrupt the flow of vehicles, pedestrians, and individuals (Section 10(c)). If any of these conditions are breached, the police possess the jurisdiction to disperse the crowd. Ultimately, irrespective of the content or conduct of the protesters, the procession and demonstration can be limited only at the discretion of the township police department. If the organizers could not reach an agreement with the authorities, the restriction will be enforced.

According to Article 19 (3) of the International Covenant on Civil and Political Rights (ICCPR), limitations on the freedom of expression are permitted. Although Myanmar has not officially agreed to or approved the covenant, the legal obligations between Myanmar and UDHR (Article 19) are utilized to assess the limits in Myanmar and compare them to global norms in this section. The allowable limitations must be (1) legally mandated and (2) necessary to safeguard the rights or reputations of individuals, national security, public order, public health, or public morals (ICCPR, Article 19).

Firstly, the requirement that restrictions on freedom of information and expression must be "provided by law" is a fundamental safeguard for the rule of law. However, there are additional substantive requirements. The law must be transparent and accessible to the public and not grant unfettered discretion to those responsible for its enforcement. Additionally, the law must provide clear guidelines to those tasked with its implementation, enabling them to discern which forms of expression can be legitimately restricted and which cannot (UNHRC, 2016, para. 25).

The law lacks provisions for spontaneous gatherings, as the requirement for prior notice effectively delays assemblies and protests by two days. Moreover, there is no clear standard for judging if the reasons for restrictions are proportional. Given that police authorities have the power to regulate speech during processions, demonstrations, and public events, there must be complete transparency about the reasons for any restrictions or prohibitions and the criteria used to assess proportionality. Additionally, there is no code of conduct for law enforcement officials regarding crowd dispersal and the handling of protesters and participants.

Secondly, restrictions and limitations on freedom of expression may be deemed necessary to uphold the "respect for the rights or reputations of others". This is reflected in Sections 2(e) and (f) of the law, which stipulate that expressions must not harm an individual's dignity. However, the grounds for restrictions must be 'proportionate.' The principle of proportionality is crucial in many human rights cases, requiring that any limitations must conform to this principle. This implies that restrictive measures must be suitable for achieving their intended objective, be the least intrusive option available, and be proportionate to the protected interest (Centre for Law and Democracy, 2015). Whether specific restrictions designed to protect these rights are justifiable depends on a detailed consideration of the restrictions and the circumstances surrounding them (UNHRC, 2016, para. 22). For instance, the European Convention on Human Rights stipulates that

any restriction on freedom of expression must be prescribed by law, "necessary in a democratic society," and aimed at specific objectives such as preventing disorder or crime (Levush et al., 2019).

However, such precise guidelines are absent in Myanmar's legislation, as noted in previous sections. There are no regulations for dispersing crowds, the specific limitations are not clearly defined, and certain clauses are vague, giving police authorities the discretion to interpret them as they see fit. The imposed restrictions, such as prohibiting protests religion and ethnicity, do not align with democratic principles in a society as diverse as Myanmar. Consequently, this grants authorities broad discretion to arrest individuals for expressions they consider defamatory.

Compared to the internationally accepted restrictions on freedom of expression, Myanmar's legal framework endeavours to conform to permissible limitations: those that are legally mandated and aim to protect the rights or reputations of individuals, national security, public order, public health, or public morals. However, the absence of clear guidelines and the imposition of excessive limitations and restrictions disregarding the principle of proportionality have enabled law enforcement to criminalize the exercise of freedom of expression.

## **Conclusion**

The study suggests that Myanmar's law infringes on the right to freedom of expression and appears designed to control the public rather than to respect and promote this right by analysing the Peaceful Assembly and Peaceful Procession Law. Myanmar's legal framework imposes restrictive regulations on freedom of expression, granting law enforcement broad discretion to interpret and enforce the law. Terms like 'citizens,' 'peaceful assembly,' and 'poster' are defined restrictively, and the legal system prioritizes state security, public order, community harmony, and public morals over free speech. Vague terms like 'annoyance,' 'harm,' and 'obstruction' can enable authorities to arbitrarily criminalize expressions, thereby undermining the principle of proportionality. The notification process is excessively restrictive, and the police can disperse crowds without proper justification. These restrictions exceed permissible limits under international law, and the lack of clear regulations and safeguards against arbitrary enforcement exacerbates the suppression of free speech, undermining democratic principles.

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# TAKEAWAYS FOR NEPAL FROM GLOBAL PRACTICES ON MOTHER TONGUE-BASED EDUCATION

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## Abstract

With 123 different languages, Nepal struggles to ensure the rights of indigenous children to attain education in their mother tongue. The country encounters challenges in implementing its plans and policies despite the domestic laws adhering to international instruments. With the shift to federalism, many local authorities are taking active steps to ensure the right to education in their mother tongue. Kathmandu Metropolitan City was one of the first local governments to initiate plans and policies. This paper attempts to study the existing national plans and policies in Nepal and KMC to ensure the right to education in the mother tongue. However, in Nepal, mother tongue-based education is often seen as a language revitalization effort rather than an inherent right of indigenous communities. Therefore, the paper also examines global practices on the use of indigenous languages within classrooms and its effectiveness for language revitalization.

**Keywords:** Right to Education in Mother Tongue, Inclusive Education, Linguistic Rights, Revitalization of Indigenous Rights.

## Introduction

The Constitution of Nepal (2015, a. 31(5)) recognizes the rights of all communities in Nepal to attain education in their mother tongue up to the secondary level. Moreover, it also allows these communities to open and operate schools or educational institutions for this purpose. The previous constitutions of 1990 and 2007 had similar rights ensured up to the primary level. Besides this, since 1990, Nepal has been actively participating in various international educational initiatives to ensure mother tongue-based teaching and learning. However, implementing this right does not come without challenges in a country with over a hundred languages.

In March 2021, Kathmandu Metropolitan City (KMC) announced that all schools within its jurisdiction must add Nepal Bhasa (Language of Newa: Community) as a part of their annual curriculum (The Himalayan Times, 2021). The locals interpreted this policy as a hopeful step

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towards transferring the dwindling language to the upcoming generation. After years of systematic oppression of indigenous languages by the traditionally Khas language-speaking monarch and subsequent democratic rulers, this institutionalized act served as a ray of hope for the larger indigenous communities of Nepal (Bajracharya, 2021). However, Nepal's Bhasa-speaking community, accounting for approximately 3.2 percent (MOFA, n. d.) of the Nepali population, recognized as the indigenous people of the Kathmandu Valley, struggles to teach their children their mother tongue.

The schools within KMC are mostly English-medium schools which negatively impact the usage of the Nepali (Khas) language—Nepal's official and dominant language. Competing with the more popular Nepali and English languages in the curriculum, Nepal Bhasa, being the marginalized language (Hornberger, 2020), continues suffering from the after-effects of oppressive “unifying” propaganda, which shamed an entire generation to discard their language. While KMC's efforts were commendable at the beginning of the UN Decade of Indigenous Language (2022-2032), its implementation and eventual success remain ambiguous.

Losing language in any community threatens the survival and longevity of its tradition, culture and identity. The threat is imminent for the indigenous Newa community of Kathmandu Valley attributed to historical oppression, hegemonic suppression, globalization and educational policies enforcing dominant languages. Despite ongoing efforts to revitalize them, the effectiveness of these endeavors, particularly in urban contexts regarding the transmission to younger generations, remains uncertain. This paper attempts to study the existing national plans and policies in Nepal and KMC to ensure rights to education in the mother tongue. The paper also examines global practices of using indigenous languages within classrooms and their effectiveness in language revitalization.

## **Research Methodology**

This study is a qualitative doctrinal study using secondary data. The desk study was conducted based on online resources provided on KMC's official website to inquire about KMC's existing plans and policies on implementing the right to education in the mother tongue concerning Nepal Bhasa. Additionally, to understand global trends, various academic publications, journal articles and reports were studied.

## **Findings**

### **Development of National Plans and Policies to ensure Mother Tongue-based Education**

Since the early 2000s, Nepal has made significant efforts to improve the quality and access to education through various initiatives such as Education for All (2001-2015), Millennium Development Goals (2000-2015) and School Sector Reform Plan (2009-2015). Nepal is also committed to sustainable development goals (SDGs), which have shaped Nepal's educational goals

from 2015 to 2030. The following section briefly discusses the EFA initiatives in Nepal implemented through the 'National Action Plan', which helped promote inclusivity in education through mother tongue-based (MTB) education, its challenges and results. Next, the 'SDG 4: Education 2030 Nepal National Framework' is discussed, highlighting the current actions to ensure MTB education.

Nepal created the Education for All (EFA) National Plan of Action for 15 years from 2001-2015. The framework follows the six goals of Dakar Forum but adds a seventh unique goal to ensure "the rights of indigenous people and linguistic minorities to basic and primary education through their mother tongue" (UNESCO, 2015). Nepal's five major languages account for the mother tongue of 73.2 percent of the total population. Some of the now-endangered languages, including Nepal Bhasa, had once been national literary languages with fully developed functionalities and publications (UNESCO, 2015, p. 53). However, with the Nepali language dominating public administration, primary and secondary education, while English medium education dominates higher education, fulfilling this goal is daunting (UNESCO, 2015, pp. 16-17).

Nevertheless, the action plan played an important role in recognizing the right to education in the mother tongue as a fundamental right in the Constitution of Nepal 2015. However, goal and implementation are two sides in fulfilling this constitutional right. It is challenged by the growing preference of students and parents to learn the English language as it provides more opportunities than learning local languages. There is also a massive gap in scientific mapping of the conditions of the local/indigenous languages of Nepal, the knowledge of which would help design the way forward for ensuring education in the mother tongue (UNESCO, 2015, p. 16-17).

For now, mother tongue-based (MTB) education in Nepal is based on four strategies:

- i. "use of mother tongue as a subject of study and the medium of instruction,
- ii. Bilingual/multilingual education,
- iii. Teacher recruitment, training and deployment, and
- iv. Special program for endangered languages and cultures" (MOE, 2003, p. 54; UNESCO, 2015, p. 55).

Despite these strategies, the actions of the Curriculum Development Centre (CDC) and Tribhuvan University (TU) have been limited to the preparation of study materials only. For a successful implementation, Nepal additionally requires the development of teaching-learning material, qualified human resources and learning resources. The quality of such resources can be improved by including cultural and traditional nuances, not limited to literal translation from dominant languages (UNESCO, 2015, p. 16-17).

So far, the CDC has developed mother tongue-based textbooks in 22 different languages as an optional subject at the Primary Level (UNESCO, 2015, p. 16-17). The teacher's guidelines

and supplementary reading materials are only available for fifteen major languages. Similarly, The Central Department of Linguistics at Tribhuvan University prepared MTB textbooks in 7 languages, including Nepal Bhasa, for grades 1-3. While these were literal translations, the Department claims that "efforts have been made to adapt the materials to the socio-cultural contexts of the language communities in question." (UNESCO, 2015, p. 55)

Following the Incheon Declaration, Nepal published the Nepal National Framework (NNF) to implement SDG 4: Education to “ensure inclusive and equitable quality education and promote life-long learning opportunities for all.” Since Nepal has voluntarily taken up inclusivity in terms of the right to attain education in indigenous languages in its earlier frameworks, this goal came in as further encouragement to pursue inclusivity and promote MTB education. Through Target 4.5 of the Framework, Nepal aims to "eliminate all forms of disparity and discrimination in education," including access to primary-level education based on mother tongue. In 2015, 22% of students had access to mother tongue-based primary education. The target to improve is 29 percent by 2025 and 30 percent by 2030 (NNF, 2019, p 52). Nepal also aims to improve equity in the education index from 0.69 to 0.85 by 2030 (NNF, 2019, p. 59).

The NNF also recognizes that this is a national-level commitment that shares responsibility with all levels of government within the state. It allows the local governments to develop their implementation methods per contextual needs. However, they must report progress to the central government (NNF, 2019, p. 70). Moreover, in mother tongue-based education, the local government’s responsibilities can be categorized based on the NNF, which provides the 'Institutional Arrangements and Implementation Modalities' (2019, pp. 74-75). They are:

- i. “Policy, law, standards, planning, implementation and regulation of school education
- ii. Implementation of school education
- iii. Management of teachers and school employees
- iv. Distribution and implementation of the curriculum
- v. Development of local curriculum
- vi. Textbook distribution and monitoring
- vii. Establishment of reporting mechanisms, monitoring and reporting."

Besides these national-level efforts, the KMC has the following provisions for the implementation of the said rights within its jurisdiction:

1. KMC Policy and Program 2075/76

Sec 112. (Translated): Promote Mother Tongue teaching and learning at the primary level. Emphasize the protection and revitalization of the local language (Nepal Bhasa) of the indigenous group of Kathmandu Valley. [Original: k|fylds txdf dft[efiffsf] lzIf0f l;sfO{ nfO{ k|f]T;fxg ul/g]5

. sf7df8f}+ pkTosfsf] cflbjf;L g]jf/ ;d'bfosf] :yfgLo efiff -g]kfn efiff\_sf] ;Da4{g / k|a4{gdf hf}8 lbOg]5 .]

## 2. Kathmandu Metropolitan City Education Act, 2075

Sec 9 Medium of Education (Translated): (1) The medium of education in schools shall be Nepali language, English Language, Nepal Bhasa or all three. (2) Irrespective of the provision of sub-section (1), in the following instances, the medium of education shall be as given below: a. Primary Education can be taught in Mother Tongue. [Original: lzIffsf] dfWod M -!\_ ljBfnodf lzIffsf] dfWod g]kfnL efiff, c+u]hL efiff, g]kfn efiff jf ltg} efiff x'g]5 . -@\_ pkbkmf -!\_ df h'g;'s} s'/f n]lvPsf] eP tfklg b]xfosf] cj:yfdf ljBfnodf lzIffsf] dfWod b]xfoadf]lhd x'g ;Sg]5 M--s\_ cfwf/e"t lzIff dft[efiffdf lbg ;lsg]5 .]

Overall, Nepal has not only affirmed international instruments ensuring the right to education in the mother tongue but also has ample federal and local level laws, plans and policies for this purpose. However, there is general confusion about the aim of MTB education. While it aims to ensure inclusive education and improve access to education in various local languages, this is also often fueled by the aims of communities to revitalize formerly oppressed languages. In this light, the following section examines how indigenous languages have been used as a medium of instruction for language revitalization and whether this is the way to go.

### **Global Perspectives on the Use of Indigenous Languages in Schools**

In Nepal, the education system and schools are seen as a means for revitalizing declining indigenous languages. School curricula have been advocated as an effective medium for teaching young children their mother tongue (Maharjan, 2018). However, an important question to ask is whether the very system that reduced the use of indigenous languages by children can be used to reinstate the right.

In Peru, indigenous children face significant disadvantages when there is a negation of their language and culture in their daily school lives. Ames studied how this adversely affects their academic performance compared to students from dominant cultural and linguistic backgrounds (Ames, 2012, pp. 455-461). A constant exclusion of personal language and culture caused by a lack of bilingual education systems is disempowering for young students and has been proven to result in academic failure and discontinuation (Ames, 2012, p. 456, 459). The students who come from the dominant culture (in this case, Spanish) perform better in academic evaluations than the Indigenous children who face marginalization due to "language exclusion" (Ames, 2012, p. 461). Therefore, we can deduce that the exclusion of Indigenous languages from school systems creates considerable disparities in the development (including but not limited to subsequent academic discontinuation and academic failure) of Indigenous children as a result of marginalization, exclusion and disempowerment.

One of the major causes of this issue is the lack of trained professional teachers who speak the same language as the students. While there is legal recognition of indigenous children's rights to attain education in their language, the practice is limited to primary education, which has only been implemented for a few years (Ames, 2012, p. 456). This condition is similar in Nepal. The similarity is stronger since access to bilingual education is not being fulfilled because the programs need to use bilingual pedagogy.

Language in Education Policies for revitalization efforts in Canada has found that revitalization processes can only be truly successful through actions from all three levels i.e., “(1) top-down (community level) multigenerational programs; (2) mid-level (provincial/state/regional) enabling leadership, technical and financial support; and (3) bottom-up (high government level) enabling policies, advocacy, and strategic planning” (McIvor & Ball, 2019, p. 13). McIvor and Ball (2019) claim that, in the Global South, revitalization activities are primarily based on MTB education, which focuses on giving indigenous children the "best" chance. However, while MTB education approach is necessary for children to exercise their right to language. However, it is not effective for language revitalization, which requires a "cradle to grave approach" (McIvor & Ball, 2019, pp. 14-15). KMC's efforts follow a similar approach, introducing Nepal Bhasa as a new language, which has a low rate of success in terms of revitalization.

Other studies claim that language revitalization can be more successful through a private route. Kipp (2009) makes a case for language revitalization efforts through the establishment of immersion schools. Immersion schools are vital for transferring the unspoken cues of a language, which is essential for keeping the language alive. However, the drawbacks of taking a more privatized approach have also been highlighted.

The first challenge is the lack of skilled teachers who know the language and can effectively use it as the medium of instruction. Another problem is the lack of resources and funding as they are not within the government funding network. The writer emphasizes the need for immersion schools to be free from interventions from externalities such as government intervention because the main aim of these schools is to “de-program” the “negative conditioning... against speaking our languages” (Kipp, 2009, p. 6). The paper advocates that language revitalization is a reconciliation between our languages being “taken away without permission” and children learning their native language in a nurturing environment away from the state mechanism that threatened it. (Kipp, 2009, p.6).

Noori (2009) similarly proposes a private approach, stating that learning indigenous language requires the willingness to learn and practice speaking. The paper reaffirms Kipp's claim that the education system, which forces communities to phase out native languages, cannot be trusted to bring it back. Additionally, there is no single medium of solution, as revitalization is a collective effort. Various ways of teaching and learning a language will inevitably change it, but

the goal is to reverse the damage and keep it in practice. The struggle, however, is that children may not have access to their culture as the dominant culture (Noori, 2009, p. 12).

Gantt (2015) reaffirms that schools may have been the primary culprit for the loss of language globally, which is not a natural occurrence. It is traced back to European colonization and was furthered by practices like boarding schools, persisting today due to globalization and a lack of awareness. Often, when one culture dominates another, it triggers language loss for the subjugated group, as seen in the American Indian languages during the boarding school era. Here, children were forbidden from using their Native languages and were penalized for doing so, reshaping attitudes towards their languages. This attitude persisted after leaving boarding schools, leading to widespread language abandonment. Parents, aiming for their children's success in an English-speaking society, opted not to pass on their Native languages, reinforcing the decline. Nevertheless, tribal languages are vital for preserving identity, culture, sovereignty, and tradition, offering unique expressions of cultural concepts and ideas that often do not translate. Revitalizing these languages, thus, connects to healing historical trauma and preserving ancestral connections.

Language loss can be reduced with programs like the Master/Apprentice initiative, immersion sessions, and language nests for newborns and toddlers (Gantt, 2015). However, there are persisting barriers, such as declining fluent speakers, limited teaching opportunities, and the challenge of sustaining language learning amid everyday life. Public school language instruction, typically offered for short durations, often fails to produce fluent speakers as students revert to their primary language post-lessons. The crucial aspect emphasized is the continuous use of the indigenous language in the home for successful language learning, challenging the part-time nature of traditional school language teaching methods.

Hornberger (2008) studies the policies and practices of schools on four different continents for indigenous language revitalization. Hornberger concludes that schools alone are not sufficient to revive indigenous languages; success also depends on the prominence and influence of other local and global languages in various social domains (2008, p. 1).

Similarly, Seti et al. (2015) explored the adverse effects of using a dominant foreign language such as English as the medium of instruction in South Africa. Such practice neglects the use of indigenous languages as the medium of instruction, which adversely impacts the academic growth of indigenous children. The article highlights that government inaction in promoting a multilingual education system has led to the decline in the use of indigenous languages. Moreover, this is also attributed to the fact that English is believed to provide better career mobility due to societal perception of the dominance of English as a language. The perceived dominance of English is further amplified due to the lack of MTB education in schools (Seti et al., 2015).

The study reiterated the existence of “linguistic hierarchy” (Alexander, 2003 as cited in p. 28), whereby English is perceived as a symbolic linguistic representation of modernity and success (Seti et al., 2015, p. 27). English instrumentally increases communication with various cultures,

increasing opportunities for English speakers and subsequently multiplying the biases for its linguistic supremacy. Indigenous language speakers who learn primarily in English never develop the necessary “cognitive, intellectual, scholastic, and literary” in their native tongue (Seti et al., 2015, p. 20). Speakers face shame and alienation from using indigenous languages, which further declines their usage.

Considering all this, Seti et al. (2015) importantly point out the need to account for student opinion in forming policies that encourage using indigenous languages (Seti et al., 2015, p. 29). The authors draw from Hilton (2010) in suggesting that there must be a bilingual approach to promote the quality of education in indigenous and dominant languages. It emphasizes strategies to combat the perception of the hierarchy of languages to improve the usage of indigenous languages in the public sphere and academia (Seti et al., 2015, p. 29).

These studies strongly advocate against MTB education for revitalization. However, they also acknowledge that without a multilingual or bilingual approach, students from marginalized language groups do not have the same leveled playing field as their counterparts speaking the dominant language. Thus, it might be better to take a child-centric approach in implementing MTB-MLE (mother tongue-based multilingual education) for the overall development and benefit of young students.

## **Conclusion**

This study illustrates that Nepal affirms the right of indigenous children to attain education in their mother tongue. Additionally, the country has legal mechanisms, plans and policies reiterating its commitment to ensure the right. KMC also has local-level laws that are consistent with federal laws. However, the global practices of introducing Indigenous languages in schools show that the academic system might not be the ideal platform for revitalizing Indigenous languages in decline. Although KMC has promulgated plans to include Nepal Bhasa as a medium of instruction, it is clear that the language is being introduced as a new language. Therefore, this practice neither ensures the right to attain education in the mother tongue nor is it effective in revitalizing the language. Thus, it is advisable that KMC revise its methods to a holistic approach that focuses on improving access to education for students from Newa: community in their mother tongue. Further study needs to be conducted to determine the feasibility of MTB-MLE education in KMC and Nepal.



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# VERNACULARIZATION OF HUMAN RIGHTS TO PROMOTE SOCIAL COHESION THROUGH LOCAL VOLUNTEER MEDIATORS' FORUM (LVMF) AMONG HOST AND ROHINGYA REFUGEE COMMUNITY IN THE COX'S BAZAR DISTRICT OF BANGLADESH

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## Abstract

The grassroots initiative known as the Local Volunteer Mediators' Forum (LVMF) in Cox's Bazar aims to facilitate conflict resolution and foster social harmony between the host and Rohingya refugee communities in the district. Irrespective of efforts to promote harmony, enduring concerns regarding identity, rights, resources and authority occasionally give rise to incidents of communal violence and hostility. The LVMF plays a crucial role in mitigating tensions and promoting conflict resolution through informal mediation and collaborative programming. Nevertheless, it is necessary to do empirical research to determine the efficacy of LVMF in avoiding violence and promoting social cohesiveness.

**Keywords:** Human Rights, Conflict, Mediation, Rohingya Refugee, Host Community, LVMF, Cox's Bazar.

## Introduction

Cox's Bazar, a vibrant city in the southeastern part of Bangladesh, is well-known for the longest and unbroken sandy sea beach in the world. This city is also home to one million Rohingya refugees (*Bangladesh*, n.d.), and most of them fled from Myanmar's Rakhaine State due to latest persecution at the hands of the army in 2017. The Rohingyas, an ethnic minority of Myanmar, are one of the most marginalized and systematically persecuted communities in recent history (Chaudhury & Samaddar, 2018). The crisis has its roots in a combination of historical, social, economic and political factors. They have lived for centuries in predominantly Buddhist Myanmar, formerly known as Burma. Despite living in Myanmar for many generations, the Rohingya are not recognized as an official ethnic group and have been denied citizenship since 1982, making them the world's largest stateless population (UNHCR, 2023).

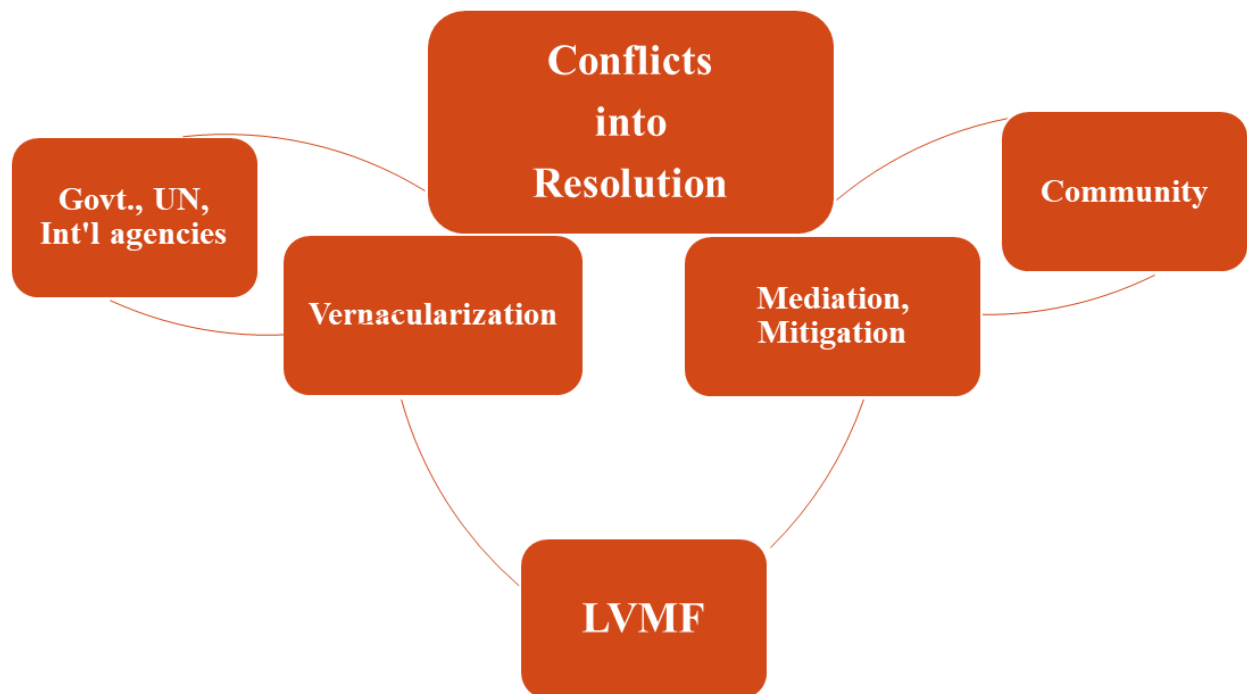
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Now Cox Bazar's 'Kutupalong-Balukhali Expansion' is the world's largest refugee camp, as during the last Rohingya influx in 2017, over 655,500 Rohingya refugees entered Bangladesh (ISCG, 2018). Ukhiya has a local population of 263,143 people where population density 909.6 km<sup>2</sup> (*Ukhiya*, 2023) and Teknaf has 333,840 people where population density 854.6 km<sup>2</sup> (*Teknaf*, 2023). This two Rohingya hosting sub-districts of Cox's Bazar is overcrowded with enormous crises and refugee influx made the situation more complex. Host communities are also impacted by this humanitarian crisis which already been challenged by the issues such as environmental damage, poor public services and infrastructure, and rising unemployment etc. Moreover, the close proximity of the Rohingya and host communities, both of whom have often insufficient or inaccurate information about each other, created increased tensions (Sunny et al., 2021). Given the post conflict scenario and local context, perceptible conflicts and mistrusts between the communities over the issues of identity, rights, resources and control still prevails in the region. Negative propaganda and distraction through intentional distortion is common with culture of fear within the communities. Therefore, local residents and the refugees have experienced many unexpected high scale communal violence in various pockets of Cox's Bazar. These factors are negatively contributing to the progress of overall development and sustained peace process. Hence, strengthening the non-violence movement for community cohesion by LVMF, can in fact contribute to reinforcing local capacities for building cohesion through closely engaging locals in assessing existing social capital, collectively finding solutions to common issues and promoting and bridging social capital among various groups through various peace building measures.

At the beginning of Rohingyas' arrival, the relationship between Rohingya and host communities was cordial that gradually became unfriendly, and to an extent, hostile- particularly since mid-2018 (Uddin et al., 2021). Therefore, community people are in fact keen to actively contribute to improving the security and safety of their communities. Generally, it has been recognized that an effective strategy in countering human insecurity and the threat lies in a collaborative approach through engaging all stakeholders, including government authorities, law enforcement agencies, civil societies, the media, families, communities and the general public at large. In relation to the above statement, LVMF from camps, union to sub-district levels in conflict-prone areas like Ukhiya and Teknaf. The initiative aims to engage public representatives of locally elected bodies (i.e. Chairman and Member of Union, Chairman and Vice-Chairman of sub-district, Mayor and Councilors of Municipalities etc.) community leaders and traditional leaders as local conflict mediators. Therefore, with the following vision in mind the LVMF formed covering the two sub-districts of Cox's Bazar district. Prior to establishment of LVMF, the members of this network received training intensively on 'Conflict Mediation & Community Cohesion', 'Technical processes of Dispute Resolution', 'Reconciliation Steps', 'Conflict Analysis and actors', 'Roles & Responsibilities of Mediators' etc. issues by mediation experts.

## Conceptual Framework



The research aims to bring out the effectiveness of LVMF and how does vernacularization of human rights language and mediation process work to make conflicts into resolution. Vernacularization of human rights language refers how LVMF deals with Govt., UN and other int'l agencies according to their accepted approaches to engage in the forum, maintain liaison, collect funds and get technical supports to keep activated the networks.

### Methodology

This study applied qualitative research techniques and analysis of secondary data. Basically desk research and review was used as data collection method. A few semi-structured interviews were also conducted from development professionals and networks' members to get insight of this forum's effective. Case studies and my professional experiences working with the forums were also analyzed. Research reports on social cohesion in the context further complement the qualitative study.

### How Does LVMF contribute to foster Social Cohesion

LVMF works through establishing linkages and coordination with influential and well-accepted community people at camps, sub-districts and unions by the formation of committees to

build allies and work on promotion of community cohesion; introduce and activate early warning of conflict and response system to prevent potential violence; organize discussion sessions at educational institutions on peace education; mediate local conflicts and mitigate disputes at local level; organize different public awareness building events (cultural, fair, drama etc.) on promotion of community cohesion.

LVMF follows a constitution that was developed in consultation with the network members. It covers organizational rules and procedures, policies and practices, mission and vision, scope of works and limitations, committee formation systems and committee members, duration of the committee, roles and responsibilities of the committee members etc. The committees formed with representation of diverse communities, gender, age, personal background and jurisdiction in order to activate the network. Since this type of non-violence movement for community cohesion is new in the context, UNDP (United Nation in Development Programme) provides timely guidance and assistance to this alliance for its sustainability. Output of the Initiative-

- An Inter-community Alliance for non-violence initiatives on community cohesion in the region is proactively contributing towards concerning on the communities' safety and security
- A cordial and friendly relationship among the communities is well established that founded on mutual respect, tolerance and recognition of diversity
- Local Volunteer Mediators are playing proactive role by taking collective efforts in prevention of communal violence i.e. establishing a systematic early conflict warning and response system, pro-active prevention system
- The local duty bearers and institutions i.e. traditional leaders, Union, Sub-district, local Govt., local administration etc. are responsive on their assigned responsibilities regarding Community level awareness on community cohesion

### **Employing HRBA to Empower Right-Holders & Duty-Bearers**

LVMF employed Human Rights-Based Approach (HRBA) in their mediation process. Based on international human rights standards, towards promoting and protecting human rights concerning on safety, security, protection and non-violent movement, this HRBA is applied as a conceptual framework through their activities. It puts human rights and corresponding obligations at the heart of its guided principles and constitution and can be used by LVMF as a tool to empower the most vulnerable people to participate in decision making processes and also hold duty bearers accountable. HRBA in this LVMF refers to empower community people as rights-holders to claim and exercise their related rights and to strengthen capacity of mediators and members of this network as duty-bearers who have the obligation to respect, protect, promote, and fulfil human rights through their activities and mediation processes.

## **Conceptualizing Vernacularization of Human Rights**

LVMF emphasize on cultural relativism over ethnocentrism by promoting all the cultures are valid equally where ethnocentrism refers own culture is superior than others. They emphasizes on the importance of diversity and inclusion. They also adopted alternative mechanism to justice system at local level which is more like community driven solutions. This approach empowers local volunteers and mediators to facilitate dialogue, negotiate solutions, and resolve conflicts effectively within the community's cultural framework.

LVMF plays a great role adopting proper approaches to deal with different agencies and institutions like Govt., UN agencies, local Govt., local administration etc. During last Rohingya influx in 2017 to till now, Govt. has not declared them as refugee. Govt. recognized them as Forcibly Displaced Myanmar National (FDMN). On the other hand, UN addresses them as refugee. So being LVMF networks' members they choose proper approaches to deal with different agencies differently by translating human rights language.

## **Recommendations**

As Bangladesh is not a state party to the Refugee Convention 1951 and its protocol 1967, the law does not provide for granting asylum or refugee status, nor has the government established a formal system for providing protection to refugees. The government also claimed it was not under legal obligation to uphold the basic rights enshrined in this treaty. The lack of formal refugee status for Rohingya and clear legal reporting mechanisms in the camps impeded refugees' access to the justice system. Rohingyas' are also bound to rely on government officials responsible for each camp, known as the Camps in Charge (CiC) to address allegations of crime. So the administration should concentrate in strengthening this alternative community led solution to the justice system.

People belongs to the host community live inside the camp areas and close to camp, are more likely to get involved in conflicts with the Rohingya community. Also there is clear lacking in positive engagement among Rohingya and host communities. These areas can be marked as the red zone and the forum should initiate more interactive dialogues here to promote peace and social cohesion among communities. Also the forum can work on mapping the zones prioritizing danger to safer. It is also observed that host community people tend to do negative narratives continuously about the Rohingya community for what tensions between the communities happens frequently. So there is a greater scope of work to do in this particular situation.

As Cox's Bazar is the gateway of different sea routes from other neighboring countries, it became the hub of different illegal means. The youths from both communities are tend to engage easily to drug smuggling, human smuggling and trafficking and other crimes. The crime rates are increasing day by day. So the forum with the support of the government, International and UN agencies may initiate skill based technical trainings as youth-skill development programme that can reduce both crimes and unemployment rates in the region.

## **Conclusion**

Social cohesion results from the successful efforts over time. It's crucial to understand and address issues like tensions, their causes and how to effectively mitigate to achieve it. The Local Volunteer Mediators' Forum (LVMF) serves as an essential mechanism for fostering community cohesion and conflict resolution in the context of the Rohingya refugee crisis in Cox's Bazar. By employing Human Rights Based Approach (HRBA), the LVMF empowers both the Rohingya and host communities to engage in dialogue, address grievances, and collaboratively seek solutions to shared challenges. The initiative not just addresses immediate tensions but also promotes sustainable peace by enhancing local capacities and fostering mutual respect among different communities. Despite the complexities of the situation, including the lack of formal refugee status and existing legal challenges, the LVMF's commitment to cultural relativism and community driven alternative justice mechanisms highlight the importance of inclusive approaches in conflict resolution.



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# **LOCALIZING INCLUSIVITY: BUILDING COLLABORATIVE AGENDA ON SUPPORTING REFUGEE COMMUNITIES IN MAKASSAR, INDONESIA**

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## **Abstract**

Makassar is among the refugee transit cities in Indonesia that currently host around 1,415 refugees from various countries in 2022. The refugees' presence comes with multiple issues and challenges, including their inability to adapt to the local communities, limited access to health and education, and involvement with law enforcers for violating legal rules. This research aims to analyze the social challenges faced by refugee communities and how the local actors contribute to inclusivity at the local level to encourage social acceptance and cohesion in Makassar. This research is qualitative. The researchers collected data through literature review, observation and semi-structured interviews. This research finds that local actors initiated various social agendas in collaboration with the government and other stakeholders in Makassar, including encouraging cultural exchange and fulfilling the refugees' access to education and capacity building in Makassar. Those efforts will overcome social frictions and increase social cohesion towards refugees in Makassar.

**Keywords:** refugee, inclusivity, social cohesion, Indonesia, Makassar

## **Introduction**

The issue of global migration, particularly refugees, has stood as a significant challenge in today's world agenda. As populations move across borders due to some factors such as conflict, economic disparities, climate change, and persecution, understanding the dynamics of migration and the specific vulnerabilities faced by refugees becomes increasingly crucial. The journey of refugees involves not only physical displacement but also psychological and socio-economic adaptations in unfamiliar environments. As a result, migration has emerged as a multifaceted phenomenon with profound implications for sending and receiving countries.

Fransen and de Haas (2022) argue that global refugee migration has significantly increased over the past five decades. This ongoing trend will spark various challenges across economic, cultural, social, and political aspects in transit and recipient countries. Refugees often face numerous difficulties, including limited and challenging access to formal civil rights, political participation, adequate housing, employment opportunities, threats to safety, restricted access to essential services provided by the state such as healthcare or education, as well as vulnerabilities to religious intolerance and other forms of social discrimination (D. Nelson et al., 2014).

At the transit and destination countries level, issues arise due to inadequate resources and the capacity of these countries to handle refugee issues, which often lean towards weak national and local authorities (Asy'ari, 2023). Limited access to public spaces for refugees in the framework of building inclusive and harmonious social lives exacerbated these conditions. The relationship between refugees and the communities and governments in transit and destination countries can ultimately be constructive but can also be antagonistic or even involve violent actions. The positions and strategies adopted by national and local political actors become crucial in creating an open and accepting environment for migrants (UN-HABITAT, 2021).

Under Presidential Regulation No. 125 of 2016, Indonesia is currently a temporary shelter to approximately 12,616 registered refugees, comprising 9,746 refugees and 2,870 asylum seekers (UNHCR, 2023a). Furthermore, since the end of 2023, 1.200 Rohingyans who arrived in Aceh have added to the number of total refugees in Indonesia. Although Indonesia has not ratified the 1951 Convention, this country is considered one with a relatively conducive response to refugees, especially in several cities that continue to serve as temporary transit areas, including Jakarta, Makassar, Medan, and Tangerang.

The presence of refugees in Indonesia certainly brings various kinds of dynamics both for refugees and local citizens, including in Makassar. As one of the transit cities, Makassar handles more than 1415 refugees from multiple countries, the most significant number after Medan dan Jakarta. Refugee management in Makassar has been supervised under a Memorandum of Understanding with the International Organization for Migration (IOM) in 2015 (Abbas, 2018). The agreement covers the provision of funding for housing allocated from the regional budget as part of local government programs, for instance, the distribution of health services, education and other assistance (Sapada et al., 2023).

The presence of refugees in transit areas is essential to address because of their protracted situation. The refugees could spend their lives in transit areas for several years. Hence, several different local actors play a pivotal role in fostering social cohesion between refugees and citizens in Makassar. As the city grapples with significant refugee populations amidst its diverse cultural tapestry, it becomes paramount to understand the initial actions to build social cohesion among the locals and refugees. In creating more harmonious lives for refugees in their new environment, local actors in Makassar conduct several agendas such as community engagement and dialogue, cultural exchange programs, psychosocial support, and advocacy that usually involve the contribution of the local government and the broader part of local society. This research will elaborate on activities conducted by local actors in Makassar to promote the global norm of refugee inclusivity.

## **Methodology**

This qualitative study collects data using a literature review, observation, and semi-structured interviews. The literature review method establishes a solid theoretical foundation, while observation and interviews gather empirical data related to the research topic. Combining these methods will provide a comprehensive understanding of the researched issue.

## **Conceptual Framework: Global Norms in Inclusivity and Human Rights**

The theory of global norm was first introduced by Goertz and Diehl in their writing 'Toward a Theory of International Norms: Some Conceptual and Measurement Issues' in 1992. They emphasize that four elements characterize a given global norm: regularity and consistency of behaviour, the extent to which it conflicts with self-interest, the importance of sanctions, and the moral aspect. Goertz and Diehl (1992) argued that scholars could measure international norms' impact on states' behaviour through these four elements. However, scholars have challenged such a statist view on how international norms work in international relations. International relations do not only consist of state actors. International norms are not only used to prevent chaos under international anarchy. Non-state transnational actors, including individuals, advocacy networks, coalitions or movements, have been actively promoting global norms regardless of states' interests, sanctions and other aspects mentioned by Goertz and Diehl.

To further elaborate on the issue of refugee inclusivity in Makassar, this research will use the concept of global norms as defined by Khagram et al. (2002), which are shared expectations or standards of appropriate behaviour accepted by states and intergovernmental organizations. These norms apply to states, intergovernmental organizations, and, or non-state actors of various kinds. Among the most influential global norms are global human rights norms manifested in the Universal Declaration of Human Rights. Refugee inclusivity is a crucial aspect of international human rights norms, emphasizing the need for welcoming and inclusive societies to ensure the well-being of refugees and host communities.

The international community views migrants and international refugees as vulnerable groups and advocates for ensuring social inclusion as a means to guarantee the fulfilment and protection of human rights and as a critical point on the agenda of the Sustainable Development Goals 2030 (UN IOM, 2018). Inclusivity, generally defined as comprehensive participation in political, economic, and social processes, is crucial. Situations that exclude individuals and groups from political, economic, and social processes will impact fundamental security and human potential.

Social scholars believe that inclusivity is a crucial prerequisite to advocating humanitarian crises. Inclusivity plays a significant role in addressing the root causes of refugee crises. Situations characterized by political tensions, security concerns, and neglect of inclusive social values will intensify migration activities. By adopting an inclusive perspective, we can identify points of vulnerability and opportunities for social integration for migrants in transit and destination countries.

Indonesia is not legally obligated to provide permanent settlements for asylum seekers or international refugees. The global regime concerning refugees came from the 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees, neither of which Indonesia has ratified, thus categorizing Indonesia as a non-party state. However, based on international legal principles, individuals seeking protection are entitled to international legal protection when they cross a national border towards their destination country. The principle of non-

refoulement prohibits countries from refusing or returning refugees. This principle mandates every country to accept, provide shelter, protect, and serve refugees. It prohibits rejecting their arrival even if the government is not a party to the 1967 Refugee Convention.

The Indonesian government issued Presidential Regulation No. 125/2016 concerning the Handling of Foreign Refugees, which serves as a normative and coordinative framework for ministries/agencies and involves the participation of local governments in handling refugees from abroad. This regulation has been supplemented with various collaborations with UNHCR to organize stages of handling refugees in Indonesia, including discovery, securing, temporary placement, and immigration oversight. The hope is that this regulation can serve as an early and ideal regulatory framework to respond to the needs and crises refugees face in Indonesia and enhance oversight over refugees residing there.

Indonesia has ratified various human rights conventions that support refugee protection, including the Convention on the Rights of the Child. According to UNHCR's latest data, there are approximately 12,616 registered refugees in Indonesia. Of this number, 27% are children, with 82 arriving alone or separated from their families (UNHCR, 2023). Many countries have reminded Indonesia of its role in addressing these challenges in various global forums.

Indonesia has also ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and translated it into Law No. 6 of 2012 concerning the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This regulation will positively impact the management of refugees and asylum seekers in Indonesia. Refugee management regulations should be grounded in humanitarian principles and global human rights aspirations while respecting international customary tenets, particularly in emergencies.

In addition to the norms mentioned above, another crucial approach is the integration of human rights perspectives in every effort to manage migration and refugees in transit and destination countries. The preamble of the Universal Declaration of Human Rights (UDHR) asserts that "the inherent dignity and the equal and inalienable rights of all members of the human family [are] the foundation of freedom, justice and peace in the world." Article 2 further affirms that everyone is entitled to all the rights and freedoms outlined in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or opinion, national or social origin, property, birth or other status. This article underscores the importance of upholding human rights principles in addressing the challenges faced by migrants and refugees globally.

At the core of human rights values lie the principles of equality and non-discrimination, which prohibit differentiation, exclusion, restrictions, or preferences based on race, colour, descent, ethnic or social origin, sex, gender, age, sexual orientation, gender identity, disability, religion or belief, nationality, migration status, or any other status. Moreover, it is essential to promote meaningful participation and inclusivity in decision-making processes that affect the enjoyment of everyone's rights. Every refugee should participate in developing relevant public

policies addressing their crisis. Migration brings opportunities and significant challenges, such as vulnerability and discrimination. If migrants do not have access to fundamental human rights, it will hinder their ability to benefit from migration. Protecting human rights is crucial to promoting social inclusion and integration of migrants, enabling them to lead economically productive lives and enriching cultural and social life.

Ultimately, various norms and regulations concerning refugees will encourage international cooperation to share responsibility in assisting, protecting, and finding solutions for all those affected. Following global migration, the ability to foster social integration among refugee communities and their host populations is among the foremost policy and human rights challenges today. Considering the existing limitations, migration and social integration processes could be more straightforward and require extensive negotiation and compromise. However, all these ideals about humanity will become concrete political stances.

### Findings and Discussion

The absence of an adequate protection system from the Indonesian government leaves room for non-governmental organizations or independent communities to provide alternative protection systems, as shown in Figure 1. These local actors include SUAKA – the Indonesian Civil Society Network for Refugee Rights Protection, Jesuit Refugee Service (JRS), Cisarua Refugee Learning Center and Roshan Learning, The Sunrise Refugee Learning Center of Sandya Institute, Church World Service, and local schools/universities. SUAKA and JRS provide legal protection for refugees, the Church World Service advocates for refugees to avoid being placed in detention centres, and some communities offer skills training for refugees and focus on educating refugee children (Hasan, 2018). These non-state actors actively ensure that human rights and refugee protection are not ignored, even with minimal local government attention.

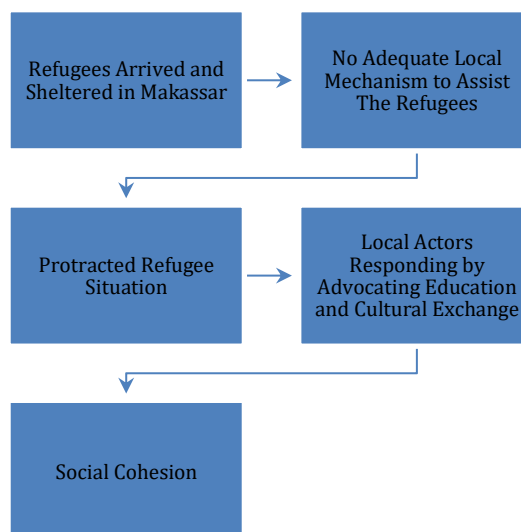


Figure 1: Process of social cohesion initiated by the local actors

In exploring the role of local actors in establishing social cohesion and inclusivity among local citizens and refugees in Makassar, this writing divides the findings into two key points.

*A. Open Class for Refugees: Advocating Education Rights for Refugees*

Living in limbo and uncertainty have always been among the significant challenges faced by the refugees in Makassar. This situation, often explained as protracted refugee situations, had already come to the attention of UNHCR. Their lives may not be at risk, but their fundamental rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance (UNHCR, 2004). In Makassar, as shown in Table 1 below, among 1,415 refugees, there are around 200 refugees below the age of 17 years, and only 156 attend formal education. The data shows the importance of advocating the refugees’ access to formal education.

| Education Level    | Male      | Female    | Total      |
|--------------------|-----------|-----------|------------|
| Kindergarten       | 29        | 21        | 50         |
| Elementary School  | 38        | 42        | 80         |
| Junior High School | 6         | 7         | 13         |
| Senior High School | 7         | 6         | 13         |
| <b>Grand Total</b> | <b>80</b> | <b>76</b> | <b>156</b> |

Table 1: Number of Refugees in Makassar with Access to Formal Education 2022  
(Source: IOM, 2022)

Education for refugees is a critical component of their journey toward integration, empowerment, and rebuilding their lives. Amidst displacement and often in precarious conditions, refugees face significant challenges in accessing formal education systems. In the local context, efforts to ensure refugees' right to attend school have begun by establishing close communication with local stakeholders, such as the Education Bureau and public and private schools in Makassar. Since the MoU in 2015, some formal schools have been open to accepting refugee students at the elementary level, with funding support from IOM (Gabiella & Putri, 2018). It demonstrates the commitment of schools in Makassar to encourage refugees to enrol in formal education despite their challenges.

Meanwhile, at the higher education level, at least two private universities, Bosowa University and Universitas Kristen Indonesia Paulus (UKIP), are now managing open classes for refugees as the implementation of the MoU between IOM Makassar and universities in providing access for refugees to higher education. Since Indonesia has yet to ratify the 1951 Convention, implementing open classes for refugees is carried out according to each university's regulations. For example, at Bosowa University, the International Relations Department conducts open classes where refugees can attend a program with selective modules. Since the classes use Bahasa Indonesia, candidates must understand Bahasa Indonesia

academically. During the class, refugees will receive the same materials and treatment as regular students, although they will not receive transcripts at the end of the semester.

| University                              | Department              | Number Attending |
|---|-------------------------|------------------|
| Universitas Kristen<br>Indonesia Paulus | Accounting              | 1                |
|   | Management              | 3                |
|   | Law                     | 1                |
|   | Information Technology  | 1                |
| Universitas Bosowa                      | International Relations | 2                |
| <b>Total</b>                            |                         | <b>8</b>         |

Table 2: Number of Refugees in Makassar Attending Open Class Program in University 2022  
(Source: IOM, 2022)

It is important to note that the open class unlocks a greater possibility for refugees to live harmoniously with other students, as they will be free to join student organizations and be involved in numerous activities. Based on interviews with several refugee students at Bosowa University, the researchers figured that the opportunity to attend university classes has helped them cope with their uncertain situation (Jawad, 2024). This research argues that opening access to formal and informal education is a significant effort to address the need for knowledge, provide space for social cohesion, and help alleviate the stress experienced by refugees due to their prolonged situation in Makassar (Mahdawi, 2024).

### *B. Cultural and Social Event: Encouraging Social Cohesion*

Cultural and social events play a crucial role in building social cohesion as the event could be a medium to share experiences among refugees and local citizens. In a broader context, cultural and social events could help refugees introduce their cultures and foster a sense of belonging among community members. These events serve as catalysts for forging connections and nurturing a cohesive and inclusive society. One of the initial cultural events organized by IOM Makassar is the annual ‘Global Migration Film Festival,’ which aims to raise awareness about migration and refugees through films. The festival showcases various films, including documentaries and fictional narratives, that depict the experiences, challenges, and contributions of migrants and refugees worldwide. In 2022, under the GMFF event, IOM Makassar showcased a web series titled "Five Ingredients," consisting of five short films depicting the lives of refugees in Indonesia. Unlike previous GMFFs, where foreign filmmakers directed the movie, Indonesian filmmaker Dennis William directed this web series (Tas’an, 2023).

In organizing the GMFF, IOM must collaborate with several local stakeholders in Makassar, including public and private universities, local government, and the general public. The event also initiated dialogue and understanding among a wide range of audiences, from



the government to students, about migration issues and the lives of those affected by displacement. The festival serves as a platform to amplify voices, promote empathy, and advocate for the protection and rights of migrants and refugees globally in Indonesia, particularly in Makassar.

An exciting aspect of the GMFF is that the issue of refugee acceptance is a key topic discussed during the annual panel discussions. Some local community members participate in the discussion sessions by sharing their experiences interacting with refugees. Some participants are residents living near refugee shelters or individuals who interact with refugees in community settings or public events. Local stakeholders and academicians also give their perspectives to convey the message of how important it is to support the life of refugees from the perspective of human rights.

Another social event initiated by the local actors is the capacity building of volunteers who assist the refugees without legal documents. In January 2024, Lembaga Studi Kebijakan Publik (LSKP) worked with IOM Makassar to manage the capacity building in Makassar. This event was themed "Managing Community Engagement," based on the needs and challenges experienced by volunteers in the teaching-learning process they undertake. The event's activities are diverse, starting with an introduction to refugee cultures, then volunteer input, creative learning sessions facilitated by psychologists, and discussions on self-management strategies for handling daily tasks and responsibilities as volunteers.

These actions, initiated by local actors, are just a tiny example of how they contribute to fostering inclusivity for refugees. Local actors in Makassar have undertaken a wide range of initiatives, from city-wide policies to grassroots community efforts, to support refugee inclusivity.

## **Conclusion**

Inclusivity is complex, involving responses and the acceptance situation within local communities. The challenge is ensuring that social frictions or tensions between refugees and local communities do not escalate into open conflicts. On the other hand, the ongoing crisis faced by refugees, characterized by rejection and difficulties in finding accepting countries, will persist until we figure out concrete solutions for these long-standing issues.

In terms of building social cohesion and inclusivity, the contribution of local actors has become a critical keyword. This strategic shift aims to create a shared vision for effective migration management by engaging local actors in developing coordinated approaches. This collaboration will address refugee challenges globally and in Indonesia, specifically focusing on Makassar. This awareness is crucial because local actors and communities are the ones who experience the impacts, both positive and negative, of migration and displacement events. Therefore, their strategic role needs to be emphasized and engaged in effectively.

Ultimately, all challenges and threats arising from migration can be anticipated and managed ideally, based on the principles of humanity, comprehensive social inclusivity, and

focusing on the local dimensions of inclusive refugee protection. Localizing inclusivity is a fundamental initial effort to ensure everyone lives a dignified life, especially refugees who endure various complex situations and protracted humanitarian crises. This effort can begin and end locally, marking a critical step toward addressing these issues effectively.

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# A CASE STUDY OF ASEAN QUEER ADVOCACY WEEK: UNSAFE SPACE FOR GENDER AND SEXUAL MINORITY IN INDONESIA DURING JOKOWI ADMINISTRATION

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## Abstract

This study explores the complex and demanding situation experienced by Gender & Sexual Minorities in Indonesia, particularly about the principles of freedom of peaceful assembly. The research emphasizes the intersection of cultural, theological, legal, and social variables influencing discussions on gender and sexual minority concerns. The study also examined Indonesia's international legal responsibilities and current obstacles, such as the termination of the ASEAN queer advocacy week. The study examines the increasing occurrence of harassment against sexual minorities who oppose traditional gender norms, the government's contribution to exacerbating these conflicts, and the imperative of holding individuals accountable and safeguarding the civil rights of the gender and sexual minorities community in Indonesia.

**Keywords:** Activism and Advocacy, Freedom of peaceful assembly, Freedom of expression, Gender and sexual minorities, Legal framework.

## Introduction

Indonesia has had a historically intricate connection with gender and sexual diversity. According to Millar (1983), Indonesian indigenous cultures have included various of gender manifestations and identities for many millennia. Nevertheless, in modern times, the discussion over issues related to gender and sexual minorities has become more critical, developing due to a variety of socio-cultural and religious influences. Indonesia, predominantly a Muslim country, experiences a clash between conservative interpretations of Islam and more progressive, inclusive perspectives on gender and sexual identities (Wijaya, 2020). The religious influence has a substantial impact on the public perception of persons and groups belonging to gender and sexual minorities.

The influence of religion in Indonesian society is substantial, as most people follow the Islamic faith. The conservative interpretation frequently conflicts with broader, more inclusive viewpoints. The intersection of spirituality with gender and sexual identities has sparked a complex and diverse discussion (Wijaya 2020). The intricacy is also reflected in the legal

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structure. The ongoing amendment of the penal code (RKUHP)<sup>2</sup> is progressively exhibiting discriminatory practices towards those who identify as Gender & Sexual Minorities. The explicit reference to same-sex obscenity is concerning due to its potential to incite discriminatory treatment and lead to the creation of specific regulations that disproportionately affect those who identify as Gender & Sexual Minorities (Human Rights Watch, 2022). Gender & Sexual Minority activities have been suppressed in specific locations by the implementation of municipal regulations or ordinances. Activism and advocacy within the Gender & Sexual Minorities community have also gained traction. Grassroot organizations national, and international organizations work to raise awareness, promote acceptance, and fight against discrimination. However, the challenges from conservative groups or authorities still remain.

In addition, the recent termination of the ASEAN Queer Advocacy Week and the increase in instances of anti-LGBT harassment, highlight the pressing need to tackle these concerns (Thoreson 2023). In July 2023, a significant LGBT conference in Indonesia was canceled due to intense harassment and threats. The conference, organized to discuss the rights of sexual and gender minorities, faced backlash from conservative and religious groups. These groups exerted pressure on the venue and participants, leading to security concerns and the eventual cancellation of the event. This incident highlighted the challenges faced by the gender and sexual minorities in Indonesia, where they often confront hostility and opposition in their fight for equality and recognition.

### **Statement of the problem**

In recent decades, the global struggle for gender and sexual minority rights has gained significant momentum. One cornerstone of this advocacy is civic space, which encompasses the fundamental rights and freedoms necessary for the inclusion, protection, and participation of individuals of diverse sexual orientations, gender identities, and expressions within society.

Civic space for the gender and sexual minorities community, as articulated by the Yogyakarta Principles. These principles underscore the urgency of creating a society where all individuals, regardless of their sexual orientation or gender identity, can live freely, openly, and without fear of discrimination or violence. By advocating for legal, social, and cultural changes that promote inclusion, equality, and respect, the Yogyakarta Principles offer a roadmap toward a more just and equitable world for all members of the gender and sexual minorities community. (Cabral Grinspan et al., 2017)

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<sup>2</sup> See **Article 2 draft criminal code** recognizes “any living law” in Indonesia, which could be interpreted to include *hukum adat* (customary criminal law) and Sharia (Islamic law) regulations at the local level. [https://bphn.go.id/data/documents/draft\\_ruukuhp\\_final.pdf](https://bphn.go.id/data/documents/draft_ruukuhp_final.pdf)

In Indonesia, while the right to freedom of association is protected under Law No. 9 of 1998 and the 1945 Constitution, its practical implementation remains problematic, especially for minority groups like the gender and sexual minorities community. The situation was worsened by a 2014 amendment regulating civil society organizations and NGOs, imposing stricter regulations. By 2020, challenges increased when the Ministry of Law and Human Rights unofficially directed against the use of terms like 'transgender' 'lesbian' and 'trans(women)' in organization registrations. Notable instances include the Al-Fatah Islamic boarding school for transgender individuals being asked to remove 'waria' (transwomen) from their name, and the registration denial of Youth queer collectives on interfaith (YIFoS) based on societal perceptions. The National trans alliance (JTID) also faced name-change demands before registering (*Joint Submission on LGBTIQ Right for Indonesia's Fourth UPR Cycle*, 2022).

Since the commencement of the Jokowi presidential era in 2014, the Gender & Sexual Minorities community in Indonesia has encountered a critical issue centered around the severe curtailment of civil space for open dialogue (Parmar, 2016). The recent case is the cancellation of ASEAN queer advocacy week in July 2023. It is reflected that the period has been marked by a shrinking platform for open discussion regarding the rights and experience of the Gender & Sexual Minorities organization or individuals primarily in the context of civic space for the gender and sexual minorities community (Knight, 2023).

Furthermore, the advent of digital media has added a new dimension of threats, whereby the platforms can potentially empower marginalized voices and also serve as grounds for discrimination, misinformation, and hate speech targeted at the Gender & Sexual Minorities community. The restricted civil space for discussion that has persisted since 2014 within the Jokowi presidential era underscores the urgency to address this issue for the betterment of societal harmony and the advancement of human rights in Indonesia, especially for the Gender & Sexual Minorities community.

In the context of this research, a 'safe space' refers to environments, both physical and virtual, where gender and sexual minorities in Indonesia can freely express their identities, opinions, and experiences without fear of discrimination, harassment, or violence. The relevance of this research to human rights stems from the principle that safe spaces are essential for exercising fundamental human rights. These rights include freedom of expression and assembly, which are critical for marginalized communities like gender and sexual minorities to voice their concerns and advocate for their rights.

Social media platforms, while empowering marginalized voices, can also be arenas for public attacks and pressures on institutions, leading to a violation of safe spaces for opinion and expression. This research examines the intersectionality of safe spaces for the gender and sexual minority community, considering both their physical and virtual dimensions, within the socio-political landscape of the Jokowi presidential era.

### **Research Questions**

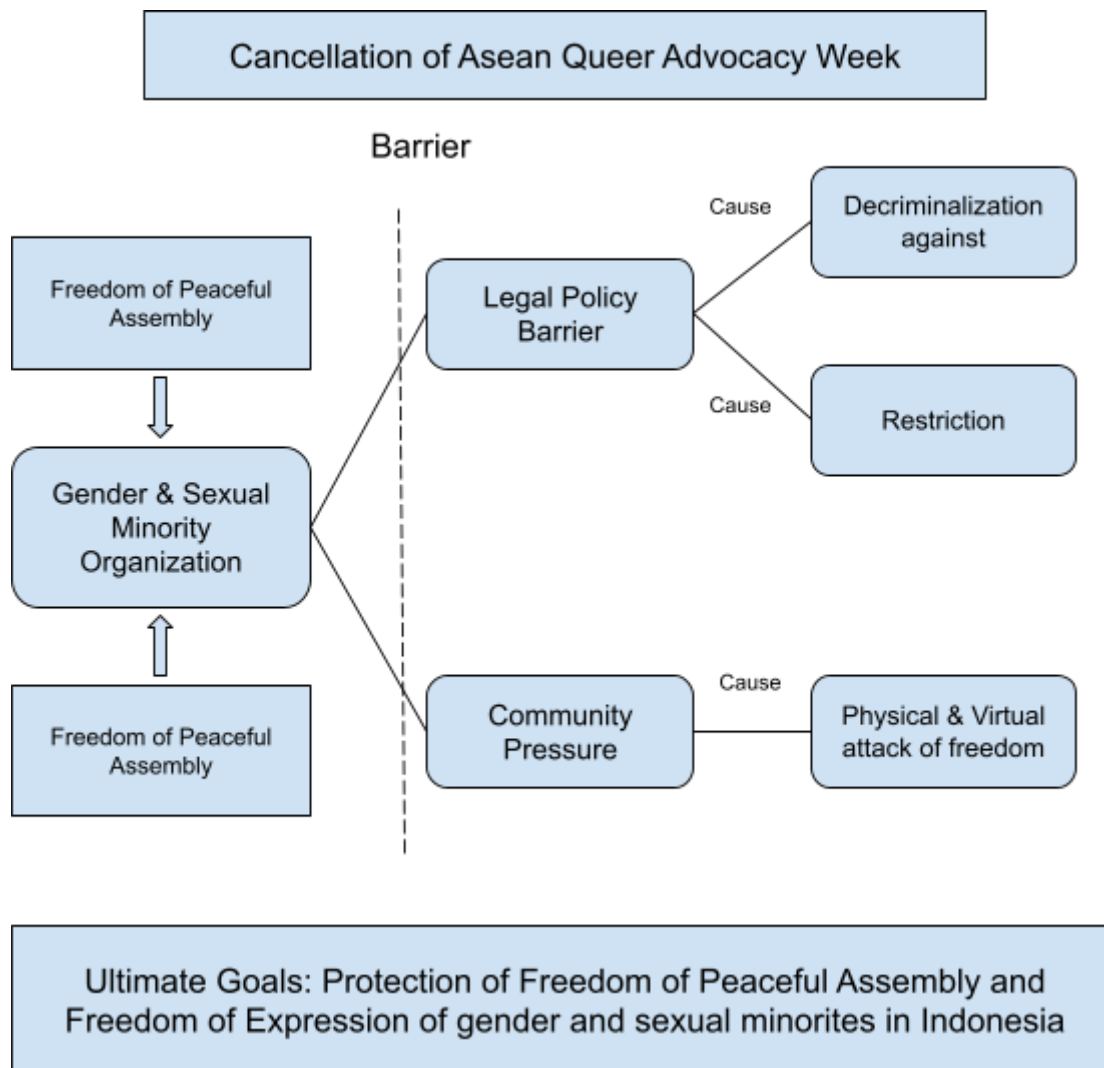
- How does the cancellation of Queer Advocacy Week in Jakarta reflect on the state of freedom of peaceful assembly and expression for gender and sexual minorities in Indonesia
- The implications due to the recent cancellation of Queer Advocacy Week in queer advocacy within this socio-political environment in Indonesia

### **Scope of Research**

The research aims to analyze the cancellation of the ASEAN Queer Advocacy Week as a case study, delving into the development, obstacles, and both physical and virtual safe spaces for gender and sexual minority groups under Jokowi's tenure in Indonesia. This cancellation is emblematic of the rising anti-LGBT harassment in Indonesia, often fueled or perpetrated by the government.

The study will focus on how this event, within the broader socio-political landscape, reflects the state of rights, such as peaceful assembly and expression for these communities. It will scrutinize the impact of legal policies, including the revised Criminal Code of late 2022, which criminalizes same-sex activities, among other human rights-infringing provisions. By examining these elements, the research seeks to provide a comprehensive understanding of the challenges faced by these minorities in asserting their rights and evaluating the Jokowi administration's effectiveness in responding to and upholding their fundamental freedoms.

## Conceptual Framework



The central issue is the cancellation of the Asean Queer Advocacy Week, which brings to light the underlying challenges faced by gender and sexual minority groups in Indonesia. The framework identifies two primary areas of concern: legal policy barriers and community pressure, both of which impinge upon the freedom of peaceful assembly and expression for gender and sexual minority organizations.

Legal policy barriers are identified as a significant impediment, suggesting that existing laws and regulations may criminalize or otherwise restrict the activities and existence of gender



and sexual minority groups. This could lead to the decriminalization of these groups and impose restrictions that severely limit their ability to organize, advocate, and express themselves freely.

Community pressure, on the other hand, refers to the societal challenges these groups face. It can come in the form of societal norms, prejudices, and actions that aim to suppress the visibility and voices of gender and sexual minorities. This pressure can manifest as both physical and virtual attacks on freedom, where members of the gender and sexual minority community may face harassment, violence, or cyberbullying.

The ultimate goal of overcoming these barriers is the protection and recognition of two fundamental rights for gender and sexual minorities in Indonesia: the freedom of peaceful assembly and the freedom of expression. This includes the ability to organize events such as the Asean Queer Advocacy Week without fear of cancellation or reprisal and to express their identities and concerns freely.

## **Finding**

### **7.1 Freedom of peaceful assembly for gender and sexual minorities in Indonesia**

The right to peaceful assembly is a fundamental human right that is acknowledged in international law, such as the International Covenant on Civil and Political Rights (ICCPR)<sup>3</sup>, which Indonesia has ratified. This right grants individuals, especially members of the gender and sexual minority group, the freedom to assemble openly or privately for a shared objective without government intervention.

Moreover, The Yogyakarta Principles provide an international standard for human rights, including sexual orientation and gender identity. The text states explicitly that governments are obligated to protect and uphold the rights of those who identify as gender and sexual minorities, including their ability to participate in peaceful assembly. Principle 20 focuses on the Right to Freedom of Peaceful Assembly and Association (O’Flaherty, 2007). It stipulates that everyone, regardless of their sexual orientation or gender identity, has the right to participate in peaceful assembly and establish social relationships<sup>4</sup>.

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<sup>3</sup> See Article 21 ICCPR: This article recognizes the right of peaceful assembly. It states that no restrictions can be imposed on this right, except those that are necessary in a democratic society for the protection of national security, public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>4</sup> “Principle 20 – Yogyakartaprinciples.org.” <https://Yogyakartaprinciples.org/Principle-20/>, [yogyakartaprinciples.org/principle-20/](https://yogyakartaprinciples.org/principle-20/).

Indonesia, as a member of the international community, must uphold and safeguard the rights of its gender and sexual minorities people under the Yogyakarta Principles. This entails establishing a secure and nurturing environment where individuals may gather and openly express their identities without fear of persecution or harm. The government should implement proactive strategies to prevent and address any potential threats or acts of violence targeting the gender and sexual minority community.

In Indonesia, the legal recognition of the rights to freedom of speech and peaceful assembly, specifically for the gender and sexual minority community, is hindered by substantial hurdles in its implementation. Theoretical protection of these liberties is provided by Indonesian legislation, namely Legislation No. 9 of 1998 and the 1945 Constitution<sup>5</sup>. Nevertheless, the situation for minority groups, particularly the gender and sexual minorities population, is markedly distinct.

Furthermore, civil society groups and non-governmental organizations (NGOs) that support and promote the rights of gender and sexual minorities encounter administrative and societal obstacles. The implementation of a 2014 legislation has been utilized to impede the process of registering and functioning groups focusing on gender and sexual minorities<sup>6</sup>. Where the Ministry of Law and Human Rights unofficially instructed that the organization's registration should not use terms like 'transgender' 'lesbian' or 'trans women' in their names. This has resulted in difficulties for organizations such as the Al-Fatah Islamic boarding school for transgender individuals and the Youth queer collectives on interfaith (YIFoS) when trying to register, due to societal biases. (*Joint Submission on LGBTIQ Right for Indonesia's Fourth UPR Cycle, 2022*)

Furthermore, the legislative framework explicitly states that police authorization is unnecessary for public assemblies; in reality, law enforcement frequently exploits this provision to break up meetings and activities planned by the gender and sexual minority community. Transgender-led public gatherings, including sports and cultural activities, have been forcefully dissolved, highlighting a disparity between the legal framework and its implementation. These activities not only violate the rights to freedom of speech and freedom of peaceful assembly, but also exacerbate the marginalization and vulnerability of the gender and sexual minorities population in Indonesia as stated in the 2023 Indonesia gender and sexual minorities UPR Report.

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<sup>5</sup> "UU No. 9 Tahun 1998." *Database Peraturan / JDIH BPK*, [peraturan.bpk.go.id/Details/45478/uu-no-9-tahun-1998](http://peraturan.bpk.go.id/Details/45478/uu-no-9-tahun-1998).

<sup>6</sup> "UU No. 17 Tahun 2013." *Database Peraturan / JDIH BPK*, [peraturan.bpk.go.id/Details/38876/uu-no-17-tahun-2013](http://peraturan.bpk.go.id/Details/38876/uu-no-17-tahun-2013). Accessed 17 Dec. 2023.

The gender and sexual minorities organization was suspended due to allegations of non-compliance with the intricate and stringent Mass Organizations Law. This law has faced criticism for its utilization in targeting and suppressing civil society groups, especially those engaged in contentious matters. All organizations are obligated to conform to the state's philosophy of Pancasila, which highlights monotheism and the unity of Indonesia. The application of this legislation to halt the operations of an organization representing gender and sexual minorities reflects the difficulties encountered by such groups in exercising their entitlement to peaceful assembly and association in Indonesia (*The Global State of LGBTIQ Organizing*, 2023).

## **7.2 Key challenges, and obstacles faced by gender sexual minorities in Indonesia regarding freedom of peaceful assembly**

The LGBT movement in Indonesia emerged in the 1980s and grew in the 1990s, representing a period of resistance to prevailing social conventions (UNDP, 2014). The HIV epidemic was essential in this mobilization, since it brought human rights rhetoric into the campaign.

Indonesian laws have not been supportive of the rights of gender and sexual minorities, despite the presence of progressive initiatives. The lack of explicit legislation against discrimination based on sexual orientation or gender identity (SOGI), along with the inclusion of homosexuality as a criminal offense in local laws, emphasizes the legal obstacles encountered by gender and sexual minorities, especially transgender individuals, when it comes to obtaining legal recognition of their identity (UNDP, 2014).

Regions such as Aceh, controlled by Shariah rules, enforce more stringent standards. The politicization of problems of gender and sexual minorities has resulted in a surge in homophobia and anti-LGBT sentiment. This is particularly evident due to the emergence of conservative Islamic factions who associate Islamic ideologies with nationalist beliefs (Wijaya, 2020).

Grassroots LGBT groups are essential in their efforts to advocate for and influence policy-making. Nevertheless, the efficacy of these efforts is constrained by the forceful resistance and absence of formal endorsement, as seen by the termination of a gender and sexual minorities conference in Jakarta in response to intimidation from Muslim conservatives (Knight, 2023).

Moreover, the enactment of the new Penal Code in December 2022 signifies a substantial regression in the protection of rights for gender and sexual minorities in Indonesia. By criminalizing any sexual actions outside of marriage, the law essentially extends the criminalization of same-sex intimacy to the entire nation. This is based on the previous legal system, which only applied such criminalization in Aceh and South Sumatra (Wijaya, 2020). The legislation puts stringent limitations on public protests. It enforces severe consequences for expressing opposition, so directly violating the right to freedom of peaceful assembly including to gender and sexual minorities.

### **7.3 Freedom of peaceful assembly and Reflection from the cancellation of ASEAN queer advocacy week**

The existence of homonegativity (homophobia, heterosexism, or anti-gay prejudice) in Indonesia is evident, with a significant percentage of the population expressing negative attitudes toward homosexuality (Tjipto, Haksi Mayawati and Bernardo, 2019)). Homonegativity in Indonesia, as detailed in the article "Perceived Threat of Homosexuals in Indonesia," refers to negative attitudes, prejudice, and violence against homosexual individuals and groups. This phenomenon is rooted in the perception of homosexuals as a threat, both in realistic and symbolic terms. The study highlights that a significant portion of Indonesians view gender and sexual minorities people as a threat, with many rejecting them as neighbors or leaders due to religious prohibitions against homosexual behavior. This perception has led to the cancellation of conferences and seminars with gender and sexual minorities topics, as well as threats and attacks against gender and sexual minorities activists.

The ASEAN Queer Advocacy Week, a prominent assembly for gender and sexual minorities activists in Southeast Asia, scheduled for July 2023, was called off in Jakarta, Indonesia, as a result of intense harassment and threats from Muslim hardline factions. The ASEAN SOGIE Caucus, in partnership with Arus Pelangi and the Asian Forum for Human Rights and Development, faced opposition from religious conservatives and anti-LGBT organizations throughout the organization of this meeting. These groups not only advocated for the government to intervene and halt the conference, but also conducted a concerted effort to vilify gender and sexual minorities persons through various media platforms, including doxing, harassing, and issuing death threats against the organizers and attendees.

The recent termination of the ASEAN Queer Advocacy Week in Indonesia underscores the substantial obstacles encountered by the Gender and Sexual Minorities community in the

nation. This event, which aimed to serve as a vital venue for amplifying the voices and promoting the rights of gender and sexual minorities in the region, faced significant opposition from conservative parties. The event's cancellation was a result of the ensuing harassment and threats, which highlights the Indonesian government's apparent incapacity or unwillingness to safeguard the fundamental rights of the gender and sexual minority groups to gather and express themselves. According to a study by Human Rights Watch in 2023, this incident not only signifies a setback for a particular event but also exemplifies the broader, more comprehensive systemic failure in protecting the rights of those who belong to gender and sexual minorities in Indonesia.

The infringement upon the freedom of peaceful assembly and speech, shown by the event during the ASEAN Queer Advocacy Week, violates fundamental norms of international human rights. Article 19 of the Universal Declaration of Human Rights (UDHR) ensures the entitlement to freedom of thought and expression<sup>7</sup>. This encompasses the liberty to actively pursue, obtain, and distribute knowledge and concepts by all means, regardless of geographical boundaries (United Nations, 1948). Furthermore, Indonesia, as a part of the International Covenant on Civil and Political Rights (ICCPR), is bound by Article 21 of this agreement, which explicitly guarantees the right to peaceful assembly<sup>8</sup>. The ICCPR recognizes the significance of peaceful assembly as a means of public expression (United Nations, 1966). The Indonesian government's inability to safeguard these rights during the ASEAN Queer Advocacy Week not only violates its international commitments but also indirectly endorses the widespread social prejudice and bias against the gender and sexual minority community.

The consequences of such lack of action by the government are substantial and wide-ranging. It creates a climate of intimidation and repression, discouraging those who identify as gender or sexual minorities from publicly expressing their identities and campaigning for their rights. The restriction on freedom of expression and assembly not only impacts the gender and sexual minority group, but also harms on the democratic nature of Indonesian society by suppressing variety and hindering the development of an inclusive and pluralistic society.

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<sup>7</sup> See article 19: everyone has the right to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of frontiers. This article underlines the fundamental human right to form, hold, and express opinions and ideas freely, a cornerstone of democratic societies and individual liberty

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>8</sup> See article 21: The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

## **Conclusion**

To summarize, the legal recognition of freedom of peaceful assembly for gender and sexual minorities in Indonesia is hindered by substantial obstacles in reality, especially for these specific groups. While Indonesian law ostensibly safeguards fundamental liberties, the actual situation for marginalized communities, particularly gender and sexual minorities, is markedly divergent. Civil society organizations advocating for these minority groups encounter administrative and societal obstacles, and law enforcement frequently employs justifications to disperse their assemblies.

Safeguarding the freedom of peaceful assembly for gender and sexual minorities in Indonesia is of utmost importance, not only as a question of human rights but also in compliance with international treaties. The ability, as stated in the International Covenant on Civil and Political Rights (ICCPR), of individuals, especially those from gender and sexual minority populations, to assemble openly or privately for a shared objective without government intervention, is of utmost importance.

It is an essential instrument for those who identify as gender and sexual minorities to articulate their identities, champion their rights, and foster a sense of unity. This liberty empowers individuals to confront prejudice, and endeavor for lawful and societal recognition. The violation of the right to peaceful assembly, shown by occurrences such as the cancellation of the ASEAN Queer Advocacy Week owing to harassment and threats, goes against the principles outlined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). It represents a systematic breakdown in protecting the rights of these minority groups in Indonesia.

Ensuring freedom of peaceful assemblies for those who identify as gender and sexual minorities is crucial not only for upholding global human rights commitments but also for cultivating a democratic, inclusive, and diverse society in Indonesia. Without of this safeguard, these groups are susceptible to marginalization and persecution, impeding their capacity to make significant contributions to social advancement and equity.

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# ENHANCING ACCESS TO LEGAL AID FOR MARGINALIZED RURAL POPULATIONS: A STUDY OF PRE-TRIAL PROCEDURES IN CAMBODIA

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## Abstract

This study looks at the difficulties underprivileged rural populations in Cambodia have in getting legal assistance during pre-trial proceedings. Six distinct groups will participate in semi-structured interviews as part of the research, which employs a qualitative methodology. Document analysis is also used to comprehend the formal frameworks around the provision of legal aid. Significant institutional, cultural, and socio-economic barriers prevent these communities from effectively accessing legal help, according to preliminary findings. The report emphasizes the pressing need for a strategy to improve access to legal aid and makes several recommendations, including more financing, improved legal literacy initiatives, and expedited legal aid procedures.

**Keywords:** Legal aid, pre-trial procedures, marginalized communities, qualitative research, access to justice, Cambodia.

## Introduction

Everyone, regardless of their financial situation, is entitled to the fundamental right of access to legal aid. Ensuring equitable access to justice is important, especially for individuals who are economically disadvantaged, socially isolated, or experiencing other challenges. Legal assistance is crucial to achieving “access to justice,” as stated in the 2030 Agenda for Sustainable Development’s Goal 16.3 (UNGA, 2015, A/RES/70/), which strives to advance the rule of law and guarantee equal access to justice for all people.

Legal aid during pre-trial proceedings is severely limited in Cambodia, particularly for disadvantaged rural populations. This problem is exacerbated by several reasons, such as financial limitations, rural location, and a lack of knowledge about one’s legal rights and available resources (Open Development Cambodia, 2021). Financial limitations make it impossible for people to afford private legal counsel, while the concentration of attorneys in cities underserves rural communities. Furthermore, it is important to raise awareness among rural populations on their legal rights and the accessibility of legal aid services, as noted by several studies (IBJ, 2022; Open Development Cambodia, 2021; UPR, 2018 & 2019; AICHR, 2019).

Due to unequal access to legal aid, accused people frequently face unfair outcomes when they are unable to defend themselves appropriately, which may lead to erroneous

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convictions or longer sentences. The purpose of this study is to determine, evaluate, and examine potential solutions for removing barriers that stand in the way of rural Cambodians' ability to obtain legal aid.

The study offers insightful information for creating policy and practice changes that improve the accessibility of legal aid for Cambodians dealing with legal issues. By complying with international standards for human rights and promoting public confidence in criminal justice proceedings, this approach can help create a more just and fair justice system. The study is vital for future scholarly studies of developing nations' legal aid systems, especially Cambodia.

## **Literature Review**

### **Impact of Legal Aid Services on Access to Justice**

Legal aid services' impact on access to justice in Cambodia is a complex subject matter. Legal aid programs may not be as effective in Cambodia due to the absence of normative protection in land law, government intervention in the judicial system, and the influence of the Bar Association, as highlighted by Chinnery (2009). The lack of public awareness of legal services, institutional expertise, and coordination between courts and legal aid providers in Cambodia may impede the provision of legal aid (Pratiwi, 2021). Distribution of legal information, especially in electronic format, could significantly enhance access to justice in Cambodia despite the obstacles mentioned (Adler, 2007).

### **Awareness and Utilization of Legal Aid Services**

Legal aid in criminal trials is essential for upholding human rights and guaranteeing fair treatment (Mufasirin, 2021). Many poor individuals, especially those in rural areas, lack awareness of the existence of free legal assistance (Suherman, 2020). The lack of understanding is compounded by the shortage of lawyers in Cambodia, which restricts the poor's access to legal representation (Dunlap, 2014). The situation is further exacerbated by the inadequate provision of legal services for the poor, leading to a denial of equal justice (Bright, 1997).

### **Lack of Legal Aid Information and Belief in Legal Systems**

The absence of legal assistance information and trust in legal systems in Cambodia is a problem with multiple contributing aspects. Adler (2007) emphasizes the challenge of obtaining legal information, especially in electronic format, and how it affects the rule of law. Donovan (2008) emphasizes the importance of establishing a legal culture in Cambodia that recognizes governmental legal institutions as genuine. Dunlap (2014) addresses the significant lack of lawyers in the country, which limits access to legal services, especially for low-income and rural communities. These studies emphasize the necessity for comprehensive initiatives to tackle the insufficient availability of legal assistance information and trust in legal institutions in Cambodia.

### **Significance of Receiving Legal Aid at the Pre-trial Stage:**

Receiving legal aid during the pre-trial stage has a major effect on the results of criminal cases. Research indicates that having legal representation at bail proceedings might result in increased rates of release on recognizance and lower bail amounts (Colbert, 2003; Worden et al., 2018). An effective legal aid system is crucial for ensuring trial fairness, reducing suspects' time in police stations and detention centers, decreasing the number of prisoners, preventing wrongful convictions, and promoting law awareness to prevent crime. Legal services may suffer in quality in a sequential system of representation when several lawyers are appointed at different phases of the case (Gilboy, 1981). Legal professionals intervening at an early stage have been shown to have a good effect on pretrial justice, resulting in less pretrial detention and enhanced decision-making (Cape, 2012). The accused individual should secure legal representation early on, such as during the pre-trial phase, to avoid being wrongly convicted.

### Conceptual Framework

The conceptual framework for this study is grounded in the Principles and Guidelines on Access to Legal Aid (2013) and Goal 16 of the 2030 Agenda for Sustainable Development. The framework integrates socio-economic, institutional, and cultural perspectives to analyze the barriers to legal aid access. It emphasizes the essential of legal literacy, the availability of legal services, and the role of traditional beliefs and social norms in shaping individuals' willingness and ability to seek legal assistance.

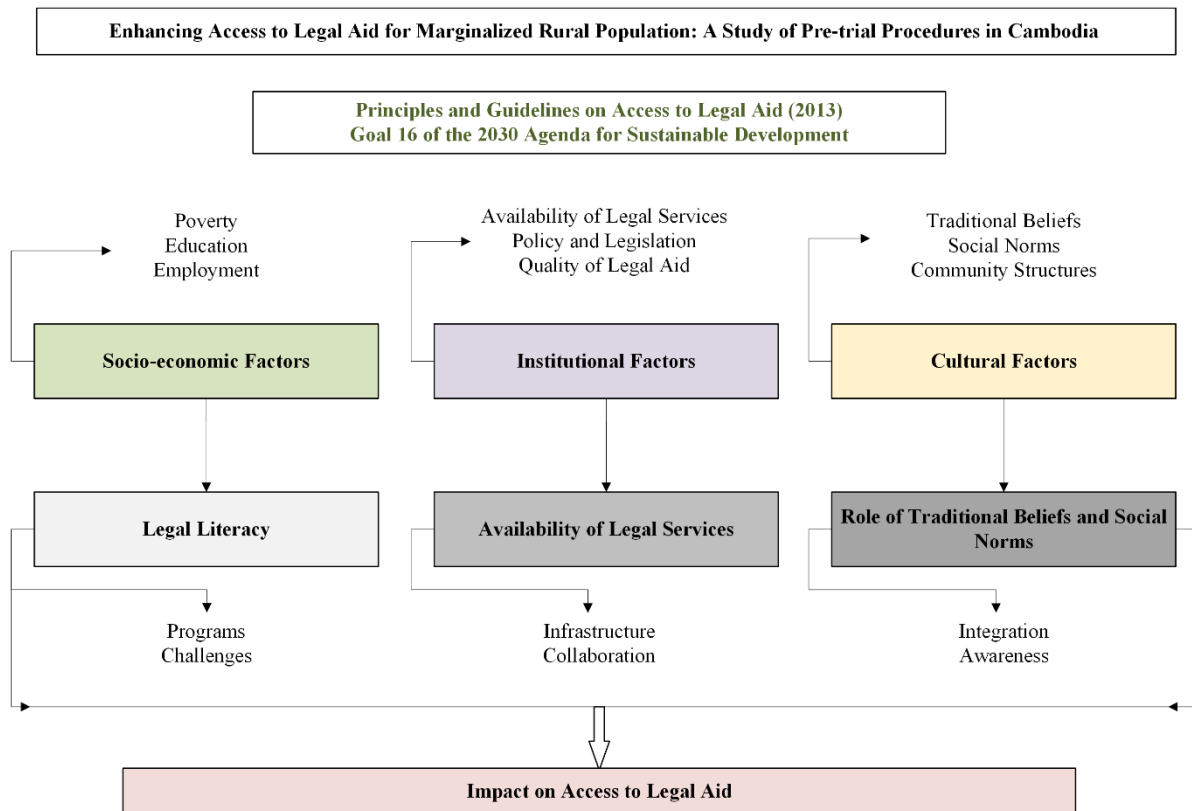


Figure 1: Conceptual Framework

## Methodology

The approach used in this study aims at ensuring that all the challenges and existing mechanisms in the process of implementation are captured adequately. The research method, the author will employ a qualitative approach and engage in interviews and document review to collect both primary and secondary data. The interview will be conducted in six groups: Participants for this study will include (1) members of various sectors in the Ministry of Justice and the Bar Association of the Kingdom of Cambodia; (2) NGO workers involved in the provision of legal aid services; (3) legal practitioners from private law firms; (4) academic legal and human rights experts; (5) respondents who have at one point in time, utilized the services of the legal aid working group; and (6) other individuals. For the purpose of secondary research method, the researcher looked into legal documents, reports and policy papers in order to gain insight into the legal framework of legal aid in Cambodia. The focus of this research is on the following provinces: Phnom Penh City, Siem Reap, Battambang, Kampong Thom and Kampong Cham. The participants who end up being interviewed are individuals who are above 18 years of age.

| Group | Interview Group  | Focus   |
|-------|--|---|
| 1     | Ministry of Justice and Bar Association of the Kingdom of Cambodia | Institutional perspective on legal aid        |
| 2     | NGO workers related to legal aid services                          | Challenges and success in provide legal aid   |
| 3     | Lawyers at private law firms                                       | Professional insights on legal aid provisions |
| 4     | Academic professionals   | Expert opinions on legal aid and human rights |
| 5     | Individual groups who have experience using legal aid services     | Personal experiences with legal aid           |
| 6     | Individual groups: non-legal aid users                             | Barriers to accessing legal aid               |

Figure 2: Overview Interview Groups

## Findings and Discussion

These findings based on the secondary data show that there are still socio-economic, institutional and cultural constraints affecting the access to legal aid by the marginalized rural communities in Cambodia. Key anticipated findings include the following:

### Socio-economic and cultural belief barriers

The findings indicate that poverty and a lack of education significantly limit individual awareness and ability to seek legal aid. Many individuals are unable to afford private legal representation and are unaware of their legal rights and the availability of free legal aid services (UPR, 2019). Traditional beliefs and social norms further discourage individuals from seeking legal assistance, with a prevalent mistrust of legal institutions and a preference for local mediation over formal legal channels.

Socio-economic and cultural barriers to legal aid require heightened public awareness through careful education campaigns and community/task-focused programs. All these are important barriers that must be addressed to increase access to justice for the marginalized.

### **Institutional barriers**

The findings reveal that inadequate infrastructure and limited availability of legal aid services in rural areas exacerbate the problem. Legal aid providers are concentrated in urban centers, leaving rural regions underserved. Additionally, the legal aid system is often underfunded, limiting its reach and effectiveness (Open Development Cambodia, 2021). Ninety percent of lawyers are in Phnom Penh, while 79 percent of the Cambodian population lives in rural areas.

Additionally, research by Open Development Cambodia (2021) reveals that “contributions from the Ministry of Justice are the main source of funding for the Department of Legal Aid of the BAKC.” As stated by the Law on Bar Association, “the Department of Legal Aid of the BAKC provides pro bono legal aid only to individuals once they have successfully petitioned the Chief of the Court for assistance.” This is one noteworthy issue that may present a challenge in the institutional structure of obtaining legal representation. As a result, the BAKC often only offers legal support in criminal defense situations.

Therefore, the BAKC legal assistance program does not cover misdemeanors. People may experience difficulties because of this misdemeanor, which may carry jail sentences of more than 06 (six) days but less than or equal to 5 (five) years. Most importantly, there are several reports that indicate that the legal aid lawyers provide for persons in need face significant challenges in providing their legal service for the clients, including the time and budget to cover the expenses (Joint Submission, 2018).

### **Positive developments**

However, there are encouraging signs that is geared towards enhancing accessibility to legal aid in Cambodia. The Bar Association of the Kingdom of Cambodia (BAKC) has also been consistent in its efforts to ensure that the right to defense is made available to all, including vulnerable groups. They have been offering free Legal Services, which have been highly praised and are important in filling the gap in providing legal aid. For instance, the Phnom Penh Post (2024) informed that the efforts of BAKC, including free legal service to state teachers, have been appreciated, and the process of closing the gap between the poor and others is in progress.

Additionally, reports by Trust.org (2023) emphasize the importance of coordinated efforts between legal aid organizations and the government to strengthen the legal aid framework in rural areas. This is particularly evident despite the Ministry of Justice's increased budget in supporting the legal aid framework; Open Development Cambodia (2021) adds that “it remains insufficient to deliver a legal aid service meeting the nation-wide demand.” These positive developments underscore the potential for collaborative efforts between various stakeholders to enhance legal aid services. Continued support and expansion of such initiatives are vital for addressing the existing gaps in the legal aid system.

## **Recommendations**

Based on the findings, the study recommends a multi-faceted approach to enhance access to legal aid for marginalized rural populations:

### **Allocate and utilize funds effectively for pro-bono legal aid services**

The Cambodian government should significantly increase its budget allocation for legal aid services. Most importantly, they should ensure that the increased funds are used effectively and transparently. This includes regular audits, establishing clear guidelines on fund usage, and prioritizing critical areas such as rural outreach and capacity building. Additionally, encourage partnerships with international donors, NGOs, and private sector stakeholders to diversify funding sources and ensure a steady flow of resources for legal aid services.

### **Enhance legal literacy**

Implement widespread legal literacy campaigns in rural communities to educate individuals about their legal rights and the availability of legal aid services. This can be done through community meetings, local radio broadcasts, and collaboration with local leaders. Furthermore, integrate basic legal education into the school curriculum to ensure that future generations are aware of their legal rights from a young age.

### **Streamline legal aid processes**

Simplify the procedures for accessing legal aid services. This could include reducing the paperwork required, helping with filling out forms, and providing clear, easy-to-understand information about the process. Establish mobile legal aid clinics that can travel to remote rural areas to provide on-the-spot legal assistance and advice (IBJ, 2019).

### **Promote community engagement**

By involving local leaders and influencers to advocate for the use of formal legal aid services instead of traditional mediation. This could be a potential way to build trust in legal institutions. Moreover, create feedback mechanisms that allow community members to share their experiences with legal aid services, as this feedback can be used to improve the service and address any issues promptly.

### **Training for legal aid providers**

Provide ongoing training and professional development for legal aid providers to ensure they are equipped with the latest knowledge and skills. Invest in the infrastructure needed to support legal aid services, such as office spaces in rural areas and necessary technological tools. More significantly, the focus on training for pro-bono lawyers is crucial. Implement targeted training programs for lawyers working on pro-bono cases to emphasize the importance of diligence and attentiveness in handling their client's cases. This training should address common issues of carelessness and ensure that lawyers understand the significant impact of their work on marginalized communities. Establish monitoring and evaluation mechanisms to assess the performance of pro-bono lawyers. Regular reviews and feedback can help maintain high standards and address any instances of negligence or carelessness promptly.

## **Conclusion**

This study underscores the urgent need to enhance access to legal aid for marginalized rural populations in Cambodia. Addressing the socio-economic, institutional, and cultural barriers that delay effective access to legal aid is crucial for ensuring equal access to justice and promoting the rule of law.

The proposed recommendations aim to create a more inclusive and equitable legal aid system. By allocating and utilizing funds effectively, enhancing legal literacy, streamlining legal aid processes, promoting community engagement, strengthening institutional capacities, and ensuring the quality of pro-bono legal services, Cambodia can significantly improve access to justice for its rural populations.

These measures will not only contribute to a fairer and more equitable justice system but also promote public confidence in criminal justice proceedings and align with international human rights standards. By implementing these recommendations, Cambodia can make substantial progress towards achieving Goal 16 of the 2030 Agenda for Sustainable Development, ensuring equal access to justice for all individuals, regardless of their socio-economic status.

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# STUDY ON THE LIMITED ACCESS TO POLICE DETENTION FOR THE PROTECTION OF POLITICAL PRISONERS IN MYANMAR AFTER THE 2021 COUPE

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## Abstract

The research underscores the urgent and pressing need for immediate reforms to address these issues, improve access to justice for transitional justice in Myanmar, and uphold international human rights standards. It identifies systemic barriers that hinder the protection of political prisoners and advocates for accountability for violations against detainees. The proposed reforms have the potential to improve the situation significantly. Additionally, the research addresses the inadequate legal protection of rights in police custody, particularly concerning arbitrary arrests, mismanagement of legal procedures, and lack of accessible legal information channels. Freedom from arbitrary arrest, access to legal protection, including legal consultation, protection from enforced disappearance, and protection from torture or ill-treatment, are crucial in the pre-trial stage. Therefore, this research is based on a robust conceptual framework that includes appropriateness (reasonable suspicion), necessity (reliable information), and proportionateness, providing a clear understanding of the research methodology.

**Keywords:** access to justice, police-detention period, law amendment, coup2021.

## Introduction

The focus will be on arbitrary arrest and the inadequate legal protection of rights in police custody. The freedom and security of Myanmar citizens have been compromised by insufficient legal procedures and a lack of knowledge and information connections post the 2021 coup. The realization of liberty and due process, recognition of substantive and procedural rights, competent mechanisms, balancing rights of accused and victims, access to justice, and complete and equal enjoyment of human rights include pre-trial rights (Geeta, 2024). This right ensures the **procedure** for those who lose freedom, and it is the **minimum standard** that shall be complied with by state

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members. Liberty can be derogated when there is a procedure under the laws and the authorities are performing in line with the law. Still, the law has to be justice and fulfill and protect its citizen's rights, not to be repression of their rights.

### Research Questions

- How did SAC's legal amendments, orders, and promulgations deny legal protection DURING pre-trial standards?
- What are the impacts of denying pre-trial rights for political detainees, especially for university students, with the reason of the restoration of the state emergency?

### Research Objectives

It is to study the **condition of police detention** after the 2021 coup in Myanmar and the **consequence** of limited access to justice. It will reflect the human rights violations and improve the accountability mechanism in Myanmar's transitional justice system.

### Research Methodology:

The comprehensive research methodology focuses on understanding human rights knowledge, perceptions, and barriers to accessing justice, particularly regarding pre-trial rights. It also includes secondary data, a thorough review of existing literature, reports, and studies on pre-trial rights.

### Conceptual Framework

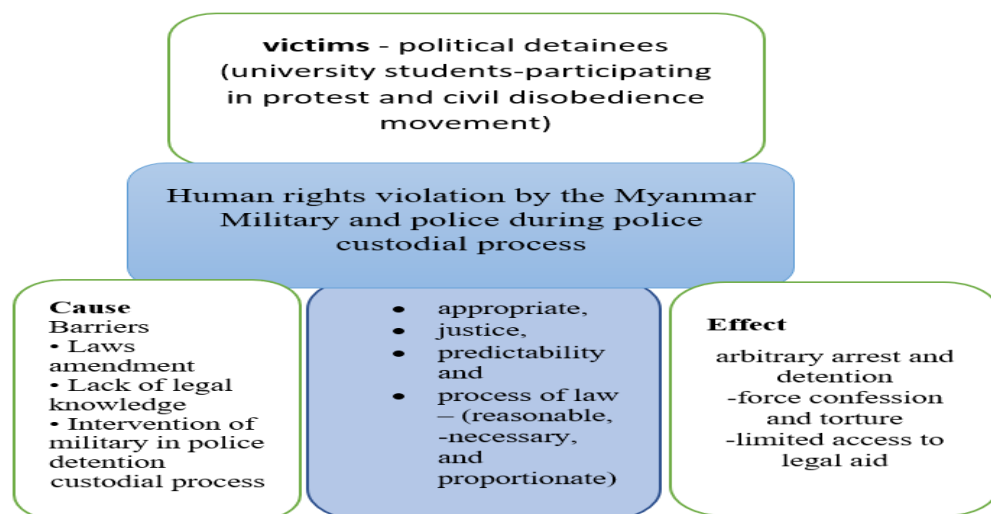


Figure 1: Pre-trial rights analysis

## **Finding and recommendations**

### **1. The situation of pre-trial rights in Myanmar**

The 2021 coup in Myanmar led to significant legal changes imposed by the junta, known as the State Administration Council (SAC), to suppress dissent and protests. These changes included amendments that facilitated the arrest and prosecution of anti-coup activists. The SAC consolidated control over the legislative, administrative, and executive branches, justifying these actions necessary to restore law and order.

On 15<sup>th</sup> March 2021, the junta issued martial law Order 3/2021, which allowed civilians to be tried in military tribunals for offenses committed in areas under martial law. Initially, this affected 11 townships in Mandalay and Yangon. The order created 23 specific crimes subject to military court jurisdiction. These trials set the cases without the right to appeal or legal representation, except through the Commander in Chief of the Armed Forces. In some instances, individuals were sentenced to death in absentia.) (Asia, 2023). They arrested 25,547 persons and detained 19756 persons since the 2021 coup. (AAPP, 2023)

Since the 2021 coup in Myanmar, the junta has implemented laws to suppress activists and control opposition with rules and procedures. They created two courts, Special Courts Inside Prisons and Military Tribunals, which are summary hearings under martial law, with no right to appeal or legal counsel.

The junta's control over the legislative, administrative, and executive branches has facilitated these legal measures, aiming to suppress opposition and maintain power. Articles 293b and 319 of the constitution refer to "courts-martial," whereas military tribunals are governed by Articles 110–193 of the Myanmar Military Act. These articles only apply to military personnel and include certain fair trial principles like evidentiary standards, the right to appeal, and legal advice (Myanmar Military Act Articles 136, 213(1), 220) (Organization, Free Expression Myanmar, 2023).

The police initiated an investigation before preparing a First Information Report (FIR) and seized private property that was not in line with the Criminal Procedure Code (CRPC). Moreover, they confiscate property without documentation or court proceedings, seizing valuable items from suspects and their families regardless of investigation relevance. Refusal to comply with police demands often results in the use of force or torture. (Free Expression Myanmar Organization, 2023). Notwithstanding being a distinct organization, the military commands the "police," and

they follow their modified "law." In addition, since the coup, the police and the army have collaborated closely. For instance, military personnel may have been engaged in an arrest conducted by police officers.

In Myanmar, post-coup conditions for detainees and political prisoners are severe, with delay charges (some are enforced disappear) of more than two weeks or without counting their interrogation days as detention period, lack of legal counsel, and facing abuse or torture for getting information. The most frequently used method is to take hostage the political detainees' families (children or elderly persons) (Trade, 2022). During the arrest and detention at the police station, the accused is **frequently subjected to abusive questioning techniques by the police in an attempt to entice, threaten, or force a confession**. Arrested persons are commonly sent to military detention facilities as well. In addition to damaging behaviors, arrestees may be punished for making false confessions frequently (Organization, Free Expression Myanmar, 2023). Asian Human Rights Commission also reflects on the situation of Myanmar in its article, "There is a lack of adherence to and present relevance of national law implementation in regions of continuing civil war and violence in Burma (Commission, 2022). They also took hostages unlawfully from at least 321 family members and relatives, some as young as three years old and as old as 94, according to reports on the human rights situation in Myanmar from the Burma Human Rights Network, Radio Free Asia, Myanmar Now media, and the Irrawaddy news. (Amnesty, Augst 2022).

## **2. The actions of Police Forced and judicial mechanisms after the coup**

Myanmar Police Force militarization and operational adjustments have occurred since the coup. Five thousand people from military forces take place in police leadership roles for security and national defense. They fix military weapons and shoot murder, beatings, extrajudicial killings, torture, sexual assault, and arbitrary detentions. Before the arrest, protesters and journalists were beaten and tortured. These actions affect police morale and reputation (Trade, 2022).

The Supreme Court and Union Antony General Office are also under the SAC's control as the Ministry of Legal Affairs. (Affairs, 2021). These two organizations are the main ones in Myanmar's judiciary, but they are under the control of the executive body occupied by SAC.

Police custody and legal protection for prisoners impact pre-trial access to justice. Section 9-a of the new Police Forced Law 2022 requires the President to appoint the Chief of the Police under Min Aung Hlaing (current commander in Chief of Defence services). Sections 4 and 18 states that the police strive "[t]o participate in national defense and security matters when necessary." The Centre for Law and Democracy notes that the new Police Law continues

militarization and affects human rights and police-public relations (Democracy, 2022). In his book *The Scope of Informal Justice Mechanisms in the 'Criminal Justice System*, Professor Yubaraj Sangrola said that victim participation is low in most Asian nations. Their only duty is judicial testifying. Neither investigators nor prosecutors care about victims' "safety and security." The author criticized South Asia's criminal justice systems for lack of accountability, corruption, mistrust, judicial delays, government influence, police powers, and abuse. According to a study by Amnesty International, political detainees face the following challenges during the pre-trial phase:

1. Arbitrary Arrests:
2. Absence of Legal Protections:
3. Enforced Disappearances:
4. Torture and Ill-Treatment: (Amnesty Myanmar, 2023).

When everyone facing a criminal offense has the **right to rapid, comprehensive, precise information** on the nature and basis of the charge against them. In the Tokyo Rule, pre-trial detention is the last resort. It shall be considered necessary and rational for the case (*nature and seriousness of the issue, victim's right, offender's personality and background, and purpose of sentence*) (Tokyo Rules (General Principles), 1990). Moreover, the Detention monitoring tool defined the definition and standards of pre-trial norms as follows-

*“The standards of pre-trial detention are- free from arbitrary arrest, torture, giving information for a reason for arrest, non-delay registration arrest date, arrest and sue with ex-post facto law, access to legal aid, and competent court.”*

### **3. Right to access legal aid during police detention.**

Legal assistance ensures fair trials and justice. Article 14 of the ICCPR guarantees criminal legal aid in paragraph 3(d). States uphold justice, equality, and fairness by providing legal assistance to people experiencing poverty. A legal assistant or defense counsel is crucial for defending the accused during preliminary proceedings. Key things a lawyer performs before a hearing:

1. Legal Advice:
2. Investigation: Conducting a personal investigation, gathering evidence, and identifying defense witnesses.
3. Negotiations:
4. Create case line:

## 5. Case filings

## 6. Court Hearings:

## 7. Client Representation:

The 2021 Myanmar coup accelerated criminal processes, with judges attempting to settle cases in 10–15 sessions over 2–3 months. Defense lawyers are closely monitored and restricted by the military. Identity recording, home and workplace visits, phone monitoring, and electronic surveillance apply. In courtrooms, attorneys must sign agreements limiting their social media and media use and banning them from discussing case material with clients (Organization, Free Expression Myanmar, 2023).

The revision to Section 505-A of the Penal Code authorizes warrantless arrest and protracted detention over seven days, repeatable, without court presence or legal counsel. These amendments violate due process and legal protections while justifying them as required to ensure compliance and avoid coercion during investigations. New legislation punishes those recruiting security service workers for the Civil Disobedience Movement and remarks inciting military troops to resist or ignore their duty. Under the updated law, “disloyalty, disobedience, or hatred among this personnel” can result in three years in jail. These reforms reflect the Myanmar military regime's persistent crackdown on dissent and civil disobedience.

The SAC also removed critical provisions from the Law Protecting Citizens' Privacy and Security (2017). Section 5 previously required two witnesses for police searches and seizures to avoid abuses. Section 7, which required judicial permission for detaining suspects over 24 hours, was eliminated, raising concerns about increased arbitrary search and arrest practices. Section 8, which prohibited unwarranted surveillance and distracting searches that violated privacy and dignity, was deleted. Such measures are usually forbidden by international law to preserve individual rights.

These reforms deliberately weaken legal safeguards and human rights, enabling massive privacy abuses, arbitrary imprisonment, and due process violations (Watch, 2021). Additionally, the SAC greatly expanded Penal Code 124's "treason" provisions. Comments on the military and its troops were included in Section 124-A's ban on “bring into hatred or disregard” or “excite disaffection against” the government—the above prohibited military criticism. The maximum jail sentence for breaking this provision is 20 years.

Under the new section 124-C, anybody who plans to "interfere or hinder the performance of the Defense Services and law enforcement organizations who are engaged in preserving the stability of the state" faces 20 years in jail. This clause prohibits encouraging security personnel to join civil disobedience or illegal protests. Under section 124D, Obstructing a government servant is punishable by seven years in jail. Due to this broad provision, protesters may obstruct defense and security authorities.

## **Criminal Procedure Code Amendment law**

The junta made possible a warrantless arrest of sections 505A, 124C, and 124D on February 14<sup>th</sup>.

## **Law (13/2/21) on Ward/Village Tract Administration**

The military can follow people more quickly after this law change (13/2/21). This is especially true for human rights activists fleeing for safety. Under Section 13, the ward or village tract administrator can "take action" against those who "failed to inform the guest register." Notify all overnight visitors from nearby wards or villages. These Section 17 changes necessitate this. For concealing overnight stays, Section 27 reinstates criminal penalties. Previous military administrations had similar, vehemently opposed prohibitions.

## **Law No. 7: Electronic Transactions Act of 2021**

On February 15<sup>th</sup>, the junta included draft Cybersecurity Law provisions to the Electronic Transactions Law. The revisions penalize "unauthorized" internet content access in Articles 38(d) and (e). These laws can punish activists, investigative journalists, and whistleblowers who use disclosed information. Section 38B criminalizes "obtaining, disclosing, using, destroying, modifying, disseminating, or sending someone else's data to anyone else without approval" with one to three years in jail. While internet privacy is crucial, this part might restrict free expression and exceed permitted limits. Section 38C criminalizes "misinformation or disinformation with the intent to cause public panic, loss of trust, or social division on cyberspace" with a one- to three-year jail sentence. These imprecise and overbroad regulations illegally restrict internet communication, including military government criticism. (Human Rights Watch, 2021).

Limited access to healthcare, including treatment for those with underlying chronic conditions, unsuitable for eating food, disregard for the specific nutritional needs of detainees, short supply of drinking water, unsanitary conditions, and forced labor were among the findings of a 2022 AAPP report on the current state of affairs in Myanmar prisons (AAPP (Assistance Association for Political Prisoners), 2022). Amnesty International reported similar issues. Political detainees lose rights during pre-trial detention due to security forces' arrest: - Arrest warrant confirmation and summons - Non-handcuff - Reasonable remand time - Bailable application to court - Freedom from torture - Confession - health and security review.

After the 2021 coup in Myanmar, prisoners lacked timely and regular access to legal assistance, preventing them from adequately defending themselves. Their lack of legal representation harmed their fair trial and due process rights. Several prisoners stated that security officers bullied or pressured them into confessing or obeying during interrogations. Without lawyers, detainees were abused and pressured (Amnesty Myanmar, 2023). Supreme Court No1474/2018-article 3(a) requires lawyers to include their office or home address, lawyer license

number, date, and legal representation status in their seal and produce a copy of their license in every case. (Myanmar U. S., 2018). Providing the lawyer's address or office address risks security. Lawyer addresses are widely accessible to the military police, and lawyers have no confidential or personal security. Ward and Tract Administrative legislation (2021) allows them to monitor attorneys and arrest those who fail to report overnight guests or suspects.

#### **4. Right to be free from arbitrary arrest**

The ND Burma Organization states that arbitrary arrest and detention can have the following four types of elements.

1. Someone is being apprehended or taken into custody
2. arbitrariness
3. Loss of individual freedom
4. Governmental action

That organization also points out arbitrary elements as “injustice, unreasonableness, disproportionality, or unpredictability (Network for Human Rights Documentation - Burma, 2008). Illegal is one feature of dictatorship that they use and also one character of arbitrary arrest. Most reasons they excuse are political crimes or accusations based on political opposition or religious reasons (Smith, 2019).

The court should assess the accused's rights' appropriateness, need, and proportionality in pre-trial criminal matters. Bangladeshi police can detain someone under the Code of Criminal Procedure if they suspect or have reliable evidence of a crime. Moreover, detaining without a warrant and for a valid purpose is arbitrariness, according to UNHCR and ICCPR article 9.1. Detention is allowed if reasonable and required to investigate the offense, apprehend a further crime, escape jail, and safeguard public order. (UNHCR, n.d.). Arrest without concrete facts and grounds is illegal arresting. Furthermore, even though it is legal detention, it shall be in line with the proportionate principle and must be for the accused persons' imprisonment (Smith, 2019). However, Detainees are often starved and beaten after the 2021 coup. Burnings, twisting arms and legs, pulling nails, drownings, stress postures, attacks, suffocations, mock executions, sexual assault, and threats of all of the above are also torture. Sexual assault and harassment are common for women and LGBTIQ people. Some jailed prisoners have disappeared or been killed. Political prisoners also receive inadequate medical care. After lawyers raised torture allegations in court, judges disregarded them, and police denied them. Bringing torture allegations is risky for attorneys. (Organization, Free Expression Myanmar, 2023).



Amnesty International found major abuses in 10 cases of incommunicado detention when security forces' arrest methods did not follow international standards. Participants reported being held at home by uniformed or plainclothes military, police, or combined forces at night. Plainclothes cops rarely identified themselves. Security broke locks and doors to enter houses and stole papers, phones, computers, and jewelry during these arrests. No one reported getting a search or arrest warrant, and all arrests were warrantless and misinformed. Amnesty International interviewed detainees who were beaten and verbally assaulted while made to kneel, handcuffed, blindfolded, and sometimes fastened with a rope to prevent mobility during transfer to police stations or interrogation facilities (Amnesty Myanmar, 2023). Since the coup in March 2022, the UN High Commissioner for Human Rights has recorded 325 custody deaths, with more expected in 2023. Several prisoners died within 24 hours of arrest due to abuse, while others died later in jail from poor medical care, according to the AAPP. Beats, stress postures, burning, mutilation, electric shocks, mock executions, and sexual assault against women, including rape, sleep deprivation, and food, water, and medication refusal are all part of this torture. Compelled stripping, verbal and physical abuse, and toilet bowl drinking are some kinds of mistreatment. Since the coup, political detainees suspected of ethnic armed groups and PDF members have been tortured nationwide. Police stations, military camps, and interrogation centers torture prisoners. Forcibly disappeared people often exhibit torture marks (Trade, 2022).

## **Conclusion and Recommendation**

Implementing laws and procedures should align with human rights norms to access pre-trial rights, and judicial reform is essential. Moreover, the judiciary should be independent from executive and military power. Therefore, recommendations include

1. Enhancing the law enforcement authorities' capability and ethics,
2. Establishing an accountable system, and
3. Establishing the effective complaint mechanism in transitional justice.

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# FORMER KAMLAHRI'S (WOMEN DEBT-BONDED LABORER) ACCESS TO RIGHT-BASED REHABILITATION TO REALIZE GENDER EQUALITY IN NEPAL

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## **Abstract**

After the legal emancipation of the Former Kamlahri women in 2013, there was a sense of optimism and a hopeful outlook towards the future following years of subjugation as bonded laborers for generations. The Kamlahri women believed that the prolonged wait had come to an end, and their years of advocacy had finally borne fruit. However, they soon came to the realization that the government had divergent plans and priorities. The concept of freedom held little significance for them as their circumstances did not improve; in fact, they worsened. Upon rebelling and departing from their former masters' residences, they encountered difficulties in gaining acceptance from their families, as they were the primary providers. Society viewed them as tainted, and overall, they faced challenges in reintegrating into society.

This thesis delves into the legal stipulations and gender perspective concerning the ordeals of former women bonded laborers, specifically within the Kamlahri system in Nepal. There is a scarcity of literature documenting women's experiences, as such narratives have traditionally been shunned and women perceived merely as components of the family structure. Examination of the legal framework reveals limited provisions that have failed to adequately address the issues faced by former Kamlahri women.

Consequently, following a comprehensive review of prevailing legal frameworks and literature, a series of interviews will be conducted with survivors, legislators, and officials from relevant ministries. This initiative aims to pinpoint the gaps and obstacles within the legal framework, and chart a path forward for survivors who now toil as daily wage earners across various regions of the nation, with some having migrated abroad in pursuit of enhanced opportunities.

**Key Words:** Bonded Labor, Former Kamlahri, Gender Justice, Rehabilitation, Freedom

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## Introduction

The Kamlahri System in Nepal is one of many forms of bonded labor or debt bondage that still exists in Nepal today. There are several forms of bonded labor that are practiced in Nepal; some of them are Kamaiya-Kamlahri, Haruwa-Charuwa, and Haliya (ILO, 2013). Kamaiya is the term used for men, whereas Kamlahri is for women and is held specifically from an indigenous community called Tharu. This community is one of the most marginalized in the far-western part of Nepal. Even though it was criminalized in 2000, the practice continues to thrive in some parts of the country.

In this system, a person agrees to work for the landlord in exchange for a loan or the landlord repays the loan on behalf of Kamaiya (Murshed & Gates, 2004). However, in order to repay the debt, generations of Kamaiya families have to work for the landlord and this is passed down from generation to generation. Eventually, they find themselves trapped in a vicious cycle of endless poverty.

A significant breakthrough for the Kamaiya occurred on July 17, 2000, when the government of Nepal declared the Kamaiya system illegal (Murshed & Gates, 2004). However, in 2002, the Bonded Labor Prohibition Act was passed, reaffirming that the debt was to be canceled and making it illegal for a person to provide services without adequate wages in return (International Labor Organization, 2002).

With the household list of 18,400 former bonded laborers, the government started the process of long-term rehabilitation. The Ministry of Land Reform and Management (MLR&M) had divided the total number of Kamaiya families into four categories: Group A comprised of the landless freed bonded laborer; Group B, comprised of landless freed Kamaiya residing in a temporary hut on barren land; Group C, with a house and less than 0.068 hectares of land; and Group D, with a house and land more than 0.068 hectares (MLR&M, 2000).

Thus, only the landless Kamaiyas who fall under the categories A and B became the main target of the government-led interventions. The other categories were not addressed, and there is a lack of information as to how these households have been accommodated in terms of labor relations and socioeconomic conditions. The government action aimed at identification, release and rehabilitation has not reached those affected (Rimal, 2019). During this process, the households were targeted with the rehabilitation packages. However, Kamlahri, a subgroup within the same demographic, was significantly marginalized. Their emancipation was delayed for years following the liberation of the Kamaiya.

Finally, the inadequacy in the national legislation and the entire rehabilitation project for freed bonded laborers should be addressed through a gender-sensitive and human rights-based approach. This approach should encompass all affected parties, offer a comprehensive solution to the issue, involve the stakeholders in the redress process, and hold the offenders accountable through legal action.

## Statement of the Problem

Despite ratifying the International Labor Organization's (ILO) two Conventions on forced labor, namely the Forced Labor Convention, 1930 (No. 29) and the Abolition of Forced Labor Convention, 1957 (No. 105), Nepal continues to grapple with significant challenges in the rehabilitation and reconciliation of the liberated bonded laborers, especially the ex-Kamlahri. These individuals, who were once trapped in exploitative labor arrangements, face a long and arduous journey toward full integration into society. The government's implementation of the Bonded Labor (Prohibition) Act 2002 marked a crucial step towards ensuring the protection and reintegration of these vulnerable groups.

One of the key issues that Nepal faces is the lack of comprehensive support systems for the liberated bonded laborers. Many of these individuals have endured years of physical, emotional, and psychological trauma, making their reintegration into society a complex process. For example, providing access to mental health services and counseling can greatly aid in their recovery and adjustment to their newfound freedom. Additionally, vocational training programs and job placement assistance are essential in equipping them with the necessary skills to secure sustainable employment opportunities.

In Western Terai of Nepal, there was a practice in which the Tharu Indigenous community “sold their young daughters (some as young as five years old) into indentured servitude in the homes of Nepali elite.” So, Kamalaris are the remnants of “the practice, built on a foundation of predatory lending, ethnic oppression, and generational debt, robbed tens of thousands of young women of educational opportunities, cultural connection, and their childhood” (Nepal Youth Foundation, 2019). Kamalaris were usually prohibited from their fundamental human rights, such as education, and their movement was restricted.

Though hundreds of Kamalaris rebelled against this modern slavery system with the belief that they could start a new life as free individuals, sadly, that has not been the case. They began to suffer from various socio-economic hardships. Several freed Kamalaris are unable to get jobs or sustain their livelihood, lacking education or the social connection through which to seek assistance.

As for support, the Government of Nepal had committed to assist Kamalaris through the ten-point agreement reached between Kamalari leaders and the GoN in June 2013 (NIWF, 2023). Sadly, the agreement has yet to be implemented fully. For example, even after ten years of emancipation, according to government data, out of 9,940 total freed Kamalaris, 7,318 freed Kamalaris have not received ID cards. Consequently, Kamalaris, lacking ID cards, have been deprived of scholarships, jobs and vocational and skill training (NIWF, 2023). There still exists a evidential ambiguity regarding the jurisdiction responsible for the rehabilitation and socioeconomic advancement of liberated Kamalaris. As a result, neither the federal nor provincial or local authorities have initiated targeted programs aimed at enhancing the socioeconomic status of these individuals.

Nevertheless, former Kamlahris continue to reside on the precipice of destitution and mistreatment without reparation, grappling with landlessness and lacking acknowledgment of their past as Kamlahris. While Nepal has taken important steps towards eradicating bonded labor through legislative measures like the Bonded Labour (Prohibition) Act 2002, there is still much work to be done in supporting the rehabilitation and reintegration of liberated bonded laborers. By addressing the multifaceted challenges faced by these individuals and implementing holistic



solutions, Nepal can move closer to achieving a society free from the shackles of forced labor. Therefore, this thesis will explore the underlying causes of the failure to actualize the freedoms of emancipated Kamlahris.

## **1. Research Questions**

Q1. What are the policies, gaps and challenges in implementing government rehabilitation schemes?

Q2: What policy changes need to be considered?

## **2. Research Objectives**

The main objective of this research is to examine the government programs from the rights-based approach and if it has been

## **3. Literature Review**

This section examines the literature concerning the identities of former Kamlahri individuals and the gendered ramifications within the rehabilitation process. The Kamlahri System predominantly impacts individuals from the Tharu community, an indigenous group in Nepal (Giri, 2012). Understanding the rights-based approach to rehabilitation and compensation necessitates delving into the historical context of the Kamlahri System in Nepal and the barriers within social structures that hinder access to justice and rehabilitation. This exploration will facilitate the deconstruction and conceptualization of the study's background.

This literature review has been categorized into three parts, namely who are the former Kamlahri, the history of the Kamlahri Movement, the gendered impact of the Kamlahri System and indicators of a right-based approach.

### **History of the Kamlahri Movement**

Whenever we talk about the Kamlahri system, we have to start with the historical aspects of the Kamaiya system in Nepal in the western parts of Nepal. Nepal is home to 142 castes/ethnic and indigenous groups who speak more than 124 languages and follow different religions (NSO, 2021). According to the Central Bureau of Statistics (2021), the total population is 29,192,480, with 14,901,169 females and 14,291,311 males; thereby, there are 51.04 percent females and 48.96 percent males. The GoN has recognized a total of 60 indigenous groups. Although some of these indigenous communities are comparatively privileged, many indigenous communities face unequal access to government resources and political institutions and linguistic, religious, and cultural discrimination. For example, among the identified groups, ten are endangered, twelve are highly marginalized, and twenty are marginalized (NFDIN, 2021).

According to the World Economic Forum (2021), Nepal is currently ranked 116<sup>th</sup> out of 146 countries in 2023, whereas last year it was ranked 96<sup>th</sup> in the world in 2022. The UN Special Rapporteur on extreme poverty and human rights, Olivier De Schutter pointed out that, "Women are still lagging on several indicators" (OHCHR, 2021). The situation of Indigenous Women is alarming. Their voices have been excluded from the mainstream women's movement in Nepal. Indigenous Women are disproportionately affected by inequality in Nepal.

Although constitutional and legal provisions ensure women's rights and gender equality, women, especially Indigenous Women belonging to remote areas still navigate deeply entrenched inequities and disadvantages for a range of reasons. The National Human Rights Council (NHRC) highlighted the fact that, compared to other women, Indigenous women face problems in having access to "state budget and resources." The women's movement in Nepal, led mainly by mainstream women, has been unable to incorporate the issues of Indigenous Women, including Dalits and Madhesi Women (NIWF&UNDP, 2018).

Emanating from exploitative labor services, the Kamaiya system is entangled with debt, wherein individuals provide labor instead of traditional debt repayment. There have been efforts to uproot the system since the 1950s; however, it was successful only after it was fueled by the internal armed conflict, resulting in the restoration of democracy (Murshed & Gates, 2004). The Kamaiya community continues to face challenges, leading to a vicious cycle of debt and poverty. There is a need to highlight the continuity of this systemic issue and stress the need for rights-based solutions beyond mere official declarations.

When the Kamaiya system was abolished, theoretically, the Kamlahri system should have ended as well. However, that was not the case because legally, the Bonded Labor (Prohibition) Act of 2002 remained nameless with no legal recognition of Kamlahri as a form of slavery. Therefore, their status remained static even after the liberation was celebrated throughout the country. It took a separate movement and a verdict from the Supreme Court of Nepal for the GoN to declare the liberation of Kamlahries. Hence this has resulted in a delayed response from GoN to provide access to rehabilitation and compensation to the victims. The later rolled-out rehabilitation packages primarily focused on households and completely ignored the gendered impact of bonded labor on women (Sapkota, 2018).

#### Gendered Impact of Bonded Labor

The literature review here is based on critically assessing the crossroads of gender dynamics and bonded labor. Societal structure, financial status, and power dynamics contribute to defining impacts on men and women in a general context and precisely so in bonded labor. Furthermore, the review will explore how gender plays a role in sustaining cycles of debt bondage and intersects with other forms of discrimination.

Although bonded labor is recognized as a severe violation of human rights, it continues to disproportionately affect the marginalized members of the communities, resulting in a perpetual cycle of poverty and exploitation (Forced Labor Convention No. 29). Despite increased attention to the broader issue of bonded labor, its gender dimensions are frequently overlooked. The feudal aspect of bonded labor is that the person who owes the debt is effectively owned while the debt is held. While a man may nominally take a loan himself, his wife and children may be included in the contract. The enslaver sees the slave as there to satisfy all of his needs - labor and otherwise, meaning that women are particularly vulnerable to abuse (Beth, 2002). Therefore, there is an increased risk of sexual violence that is completely ignored.

#### International Conventions in terms of rights of Indigenous women

Forced labor is defined in the International Labor Organization (ILO) Convention No. 29, one of the most ratified ILO Conventions, as work performed involuntarily and under coercion. It can take place in any industry, including in the informal economy. Many victims, in particular women and girls, are subjected to commercial sexual exploitation. Still, forced labor is also prevalent in sectors such as agriculture, fishing, domestic work, construction, manufacturing and

mining. It includes men, women and children in situations of debt bondage, suffering slavery-like conditions or who have been trafficked.

In terms of legal frameworks, both at a national and international level, there are notable gaps in the national legislation. National laws predominantly fall short of acknowledging the rights of Indigenous women. Local regulations do not align with international standards, particularly highlighted in Article 2 of CEDAW, which emphasizes the prohibition of discrimination against indigenous women. Despite this, local laws continue to exhibit discriminatory practices towards Indigenous women and girls, particularly in issues of participation and representation. Furthermore, these individuals have been systematically deprived of their rights to lands and natural resources, directly impacting their entitlement to equality and a decent standard of living. Given that lands serve as a primary source of livelihood for indigenous communities, the restriction or denial of their rights to lands and productive resources in the context of Nepal has been palpable.

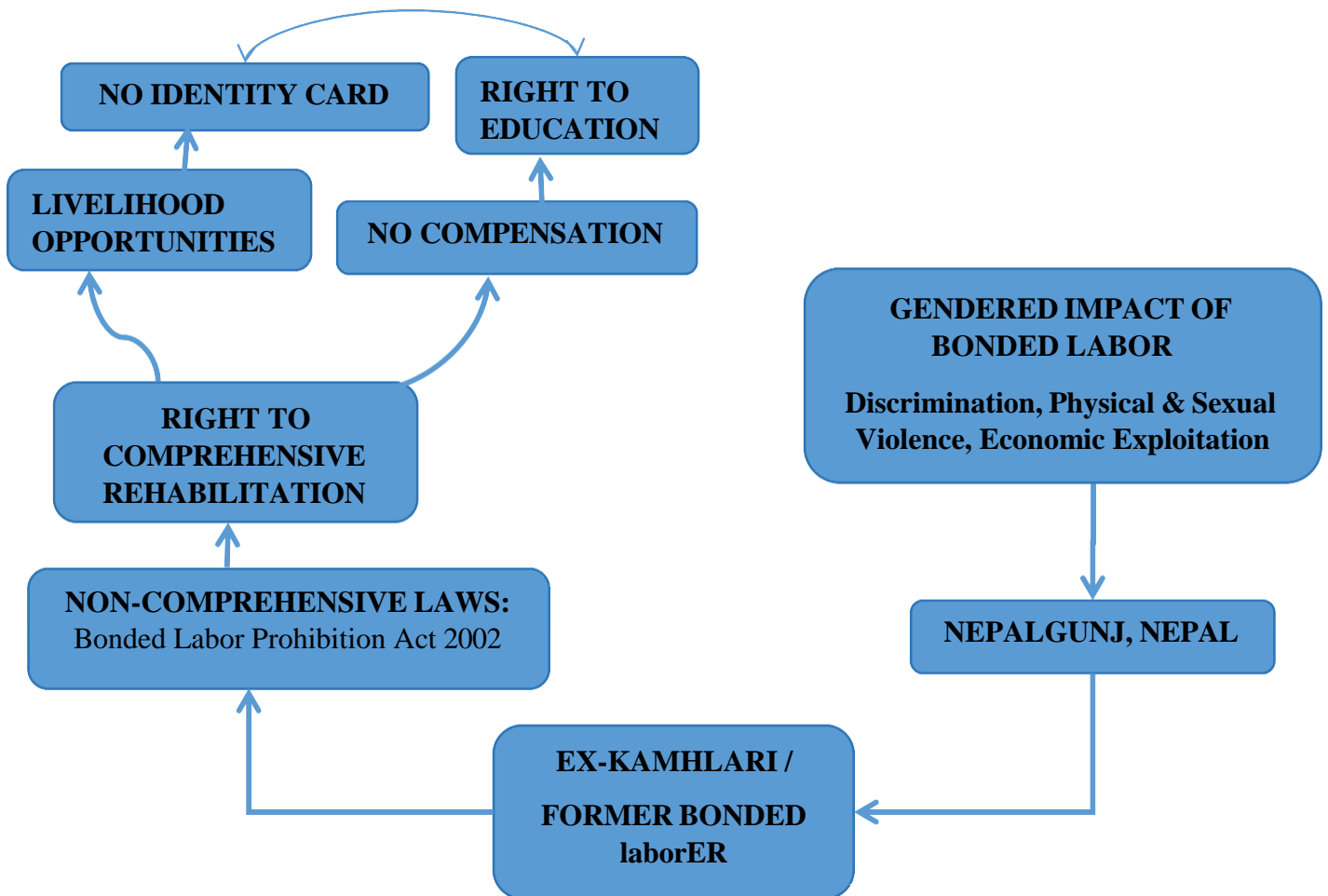
### Indicators of right-based approach rehabilitation

There is a plethora of laws and policies in Nepal to address the issues of the former bonded laborers. However, the persistence of the bondage signals the weak implementation of the laws. The laws and interventions do not sufficiently address the socioeconomic causes of the bonded system and practices. The existing definition of Bonded labor in the national legislation is ambiguous and requires amendments. Similarly, rehabilitation should not be a welfare-based approach but a right-based approach.

Furthermore, the critical indicators of a rights-based approach should be followed in realizing the rights of marginalized women and girls (Kapur and Duvvury, 2006):

- I. Recognition of vulnerability (e.g., class, caste, religion, age, sex or region).
- II. Differentiation between needs and rights when defining project objectives.
- III. Participation of stakeholders in determining interventions.
- IV. Application of negotiation and conflict resolution skills.
- V. Articulation of and response to violations of rights.
- VI. Organization as a collective to fulfil rights.
- VII. Transparency in decision-making processes.
- VIII. Resistance against duty-bearers.
- IX. Use of legal instruments that guarantee a particular right.
- X. Identification of gaps in legal instruments.

#### 4. Conceptual Framework:



Sources: Designed by Krishna Deoja

The Kamlahri System in Nepal is one of many forms of bonded labor that still exists in the western part of Nepal today. Kamlahris are in a debt-bondage to their landlords.

The problems they face while they are working for the landlord are physical violence, sexual violence and economic exploitation. They do not have a dignified life while working for the landlords. After liberation, they were supposed to be rehabilitated. Simply, the inefficient and non-comprehensive laws have left the former Kamlahris in lurch and have ended up in the same system.

Thus, a comprehensive rehabilitation package is imperative, encompassing the gendered repercussions of the bonded labor system.

## **Research Methodology**

This study methodology will be based on both primary and secondary data. The researcher will be adopting a qualitative research methodology. The researcher will be adopting a qualitative research methodology. This approach allows the researcher to delve into the intricacies of human behavior, emotions, and social interactions. For instance, in a qualitative study on the impact of social media on mental health, researchers may conduct interviews with individuals to gather rich, detailed accounts of their experiences. Furthermore, it will employ methods such as observations and interviews to collect data. These methods enable researchers to capture nuanced insights and perspectives that quantitative methods may overlook. By immersing themselves in the research context, researchers can gain a holistic understanding of the subject matter.

In addition, qualitative research emphasizes flexibility and adaptability throughout the research process. This iterative approach ensures that the research remains responsive to the evolving nature of the subject matter. Overall, adopting a qualitative research methodology offers a nuanced and insightful way to explore and understand complex phenomena. Initially, it will commence with a thorough review of the literature which will aid in establishing a conceptual framework for the research, succeeded by a field study in Kathmandu District tentatively scheduled from the 1<sup>st</sup> to the 14<sup>th</sup> of August 2024.

Methods such as Key Informant Interview (KII), and questionnaire will be developed and used for these interviews. Former Kamlahri in household set-up (aged 40-50) in Nepalgunj, Government Officials from the Land Management Division, Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLMCPA), and members from General Federation of Nepalese Trade Unions (GEFONT) will be included in the interviews. This triangulation will facilitate the analysis of the gathered data in a dynamic manner and aid in reinforcing the reliability of the findings.

## **Conclusion**

With the rehabilitation of the former Kamlahri's left unfinished and disregarded, they are vulnerable without any form of compensation or recourse. Therefore, this study will aid in identifying the gaps in the national legal framework from a rights-based perspective. Similarly, it will serve to raise awareness regarding the challenges faced by former Kamlahris and illuminate the progress made by government programs and policies thus far. Moreover, this research will offer a deeper insight into the struggle for liberation, equality, and a secure future within the bonded labor movement in Nepal. Ultimately, the conclusions drawn from this study will prove valuable to relevant government authorities, national and international non-governmental organizations, and the former Kamlahris of Nepal.

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# CHALLENGES AND OPPORTUNITIES TO ACCESS THE LIVELIHOOD OF FEMALE-HEADED HOUSEHOLDS AMONG THE PAKISTANI REFUGEE COMMUNITY IN BANGKOK

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## **Abstract**

The impact of blasphemy laws (1986) in Pakistan has been criticized as discriminatory against religious minorities and inconsistent with human rights standards for Ahmadiyya Muslim and Christian women. They are often forced into conversions and forced marriage and deprived of many professional opportunities. In addition, the impact of patriarchal society has limited women to access livelihood skills, financial literacy and technology, which deprives them of financial independence and well-being. (Young Women in Pakistan, 2020, p.59) When they seek temporary refuge in Bangkok, they face many challenges by being considered "illegal migrants" due to without requisite documents or expired visas according to the Immigration Act of Thailand B.E. 2522 (1979) of Section 11 in conjunction with Section 62, Section 12 (1) and Section 54. That means refugees and asylum seekers are at risk of arrestment, detention or deportation on immigration charges. The impact of ambiguous law enforcement causes their family to lose a primary source of income and leads to loopholes in terms of exploitation in the informal sector. Therefore, the right to work should be given to refugees and asylum seekers who are recognized as "protected persons" according to National Screening Mechanism regulations and fully support access to livelihood from INGOs. It will help them get higher-skilled and maybe better-paid jobs they prefer and access to employment opportunities in third countries. The research will focus on the challenges refugees face due to their lack of legal work rights. It also explores the livelihood skills needed to generate income for refugees in Bangkok. By collecting data from Asylum Access Thailand and Jesuit Refugee Service, Thailand.

**Keywords:** Refugee protection, right to work, livelihood opportunities, National Screening Mechanism, Thailand, Pakistan

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## Introduction

The definition of a refugee is considered internationally according to Article 33 (1) of the 1951 Refugee Convention, which defines a person who has achieved a basis of refugee status determination among five reasons: race, religion, nationality, membership of a particular social group and political opinion. Refugees and asylum seekers are also referred to as “Persons of Concern” by UNHCR (UNHCR and International Protection: A Protection Induction Programme, 2006, p.18) because they fled from their homes to seek safety and deserve protection and assistance from all stakeholders involved (Refugee Coordination Model, 2019).

For Thailand's policy on refugees, Thailand is not a party to the 1951 Refugee Convention and its 1967 Protocol and has no national legal framework to protect urban refugees and asylum seekers (UNHCR Multi-Country Office Thailand, 2023, p. 2). Consequently, refugees and asylum seekers are treated as illegal migrants under the Immigration Act B.E.2522. (1979). It may result in continued exploitation and human trafficking. In addition, the impact of the ambiguous laws and inconsistent enforcement resulted in Thailand facing criticism from international human rights organizations for its treatment of refugees and asylum seekers in the context of detaining and deporting individuals fleeing persecution or violence in their home countries.

In 2019, Royal Thai Government approved *the Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter the Kingdom and are Unable to Return to the Country of Origin B.E. 2562 (2019)*, called “National Screening Mechanism”, providing protection to only those who meet the criteria and will be considered as "**protected persons**" in need of international protection and can access education, health service and refrain from sending the protected person back to the country of origin. Besides, they desire to return voluntarily or represent a threat to national security (National Screening Mechanism Regulations 2019, Clause 25 (1)). In addition, the United Nations High Commissioner for Refugees, Thailand (2021, p.2) reports that the National Screening Mechanism (NSM) is a regulatory framework to differentiate individuals in need of protection from economic migrants and to assess refugees and asylum seekers in need of international protection for whom are unable or unwilling to return to his/her country of origin due to a fear of persecution.

However, in contrast to “**who are person under screening**”. There is no regulation to protect them while waiting for 30 days after the date of receiving the application. They might be declined the granting of protected person status and faced with the risk of being arrested. This may affect their application because a criminal background check is one of the consideration processes. (Voice of America, 2022). This means that the “National Screening Mechanism” (NSM) would rather screen people out instead of screening people in (Rungthong, 2023). In other words, no matter who they are, “protected person" or " person under screening", they can be deported, if considered a threat to national security (National Screening Mechanism Regulations 2019, Clause 15 and Clause 25), which is also consistent to Article 33 (2) of the 1951 Refugee Convention providing that if the person represents a danger to the security of the country in which he is.

It can be said that the National Screening Mechanism does not meet proper international laws and human rights standards in terms of refugee protection because there is no mention of the fundamental rights, right to life, right to seek to enjoy asylum, and right to livelihood as well as no mention of how refugees can maintain themselves without working. However, the protected person status will be eligible for temporary stay, health service and education, without a health insurance scheme. It would be better to give them the right to work and pay for social security like migrants. Allowing refugees to pay into social security funds in Thailand not only enhances their access to essential services and protections but also promotes their ability to build sustainable livelihoods.

### **Challenges faced under no legal right to work**

Although Thailand plays significant roles in protecting the rights and dignity of all as a State party to 7 cores out of 9 international human rights instruments, Thailand does not have a specific legal framework granting refugee status or outlining the rights and protections afforded to refugees under international law. The lack of domestic law, let them face many challenges to recognize refugee status. For example, refugee or asylum cards are not officially recognized by the Royal Thai Government (RTG), which means no official protection for them (UNHCR Thailand Operational Factsheet, 2021, p.2). In addition, they are not classified in *Section 34 of the Thailand Immigration Act. B.E. 2522 (1979) on temporary stay of aliens entering to Kingdom in Thailand*. As a result, they are treated as illegal migrants and work in exploitative conditions with unsafe and unhealthy conditions. It's because they are afraid to confront the authorities owing to their precarious status, so they do not dare to sue when facing any problem. (Migrant Working Group, Coalition for the Rights of Refugees, Stateless Persons & Burma Concern Forum, 2023, p. 15).

Without legal status in Thailand, female-headed households among Pakistani refugees will be more struggle and unsafe from exploitation. These are examples of some challenges Bangkok faced. For example, a Pakistani Christian husband was arrested in a condominium while caring for their newborn while his wife went to a grocery nearby. He was taken to the Immigration Detention Center and was detained more than 2 years and a half, but his wife cannot visit him because she fears for being detained for her overstaying visa as well (“Pakistani Catholic families divided by tough Thai laws,” 2018). This is one of the challenges to jump into a new role as a female-headed household. This role comes with many burdens associated with emotional distress due to the sudden separation from her husband. The arrest of her husband, who generates the income of her family, results in her struggling in a difficult situation, and she needs to seek a job right away.

In another case, an Ahmadi woman needed to work under the table at a souvenir shop in Bangkok because her husband had a mental illness, and they were separated for a while; after one month, the Pakistani owner left the country and refused to pay her. From being illegal status, she could not claim any compensation and she decided to be a beggar after that (Potter, 2016).

From the example cases, resulting from men have full authority over women in all aspects of social life under the patriarchal norms in Pakistan. Hence, Pakistani refugee women have no livelihood skills to seek financial independence. The lack of a head of the family and no work rights in Thailand made her income unstable, so becoming a beggar to get immediate cash was only one way in Ahmadi woman's view at the time. However, it would be at risk of arrest from the authorities. Thus, accessing livelihood programs provided by INGOs will help refugees to regain their self-respect by earning a living through their efforts. In addition, the training and skill development opportunities will sharpen them with new skills or enhance existing ones, making them more employable in various fields. Vocational training is also crucial for refugees and asylum seekers, empowering income-generating opportunities for them and their families.

In addition, according to *General Recommendation No.30 on women in conflict prevention, conflict and post-conflict situations 2013* has been specified that “widows, women with disabilities, older women, single women without family support and **female-headed households** are especially vulnerable to increased economic hardship owing to their disadvantaged situation, and often lack employment and means and opportunities for economic survival.” If the female-headed household is considered an urban refugee or asylum seeker, that means they have different and additional needs than men through their experience as refugees (General Recommendation No. 30 on displacement, refugees and asylum-seekers, 2013). Therefore, they should receive the support and protection they need to overcome these challenges and promote their full participation in society.

### **Opportunities through livelihood interventions**

There are many INGOs in Thailand that provide cash and non-financial support. These INGO's projects below will enhance livelihood opportunities in communities to improve skills and capacity for the following refugees and asylum seekers;

**Asylum Access Thailand (AAT)** helps alleviate the challenges faced by over 40 nationalities of refugees and asylum seekers in Bangkok. It empowers them by providing training as legal interpreters and supporting community engagement to develop refugees' understanding of Thai culture through the community engagement program to access livelihood opportunities (Asylum Access Thailand, 2019, p. 2). In 2016, AAT launched the **CHAMALiN** handicraft project, which is well-known to the public. This project offers income-generating activities to support the family from being marginalized women and not having the right to work in Thailand.

In 2018, "**Click Aroi**" ("Aroi" means "delicious" in Thai), the project was also launched, collaborating with "Na Projects," which runs livelihood programs for enhancing refugees' cooking skills from ten different refugee communities in Bangkok, such as Afghanistan, Ethiopia, Iran, Iraq, Pakistan, Palestine, Somalia, Sri Lanka, Vietnam and Yemen. The training will allow them to practice in an authentic restaurant, provide training in business skills and entrepreneurship, and

create channels for them to tell their stories through food (Asylum Access Thailand, 2024). In 2019, the AAT's livelihood projects launched "Chanda," a group of Pakistani single mothers who act as a contact person to engage a factory nearby and request a home-based job. However, it is a short-term job, so they always seek new opportunities (Tadi et al., 2019). Likely, on special occasions such as World Refugee Day, Women's Day or Humanitarian Day, AAT also collaborates with other partners to provide opportunities for refugees to show their capacities: henna tattoo, jewelry making, art and crafts and nail painting (Asylum Access Thailand, 2024). However, these activities depend on certain special days, so the right to work will promote their sustainable income and unlock their financial hardships.

**The Jesuit Refugee Service (JRS) in Thailand is an International Catholic Organization that promotes livelihood activities; for example, JRS launched the "Urban Education Project" or UEP in January 2017** to promote social awareness by teaching Burmese food in the context of cultural exchange and enhancing English activities. There is also "Social and Emotional Learning," in collaboration with Hope Bangkok to organize a Jewelry workshop for a group of women to aim skills building and express design creativities and collaborate with other partners such as Asylum Access Thailand or Bangkok Refugee Centre to provide refugee with information on how to live harmoniously with Thai Communities (The Jesuit Refugee Service Thailand, 2024).

**COERR, or Catholic Office for Emergency Relief and Refugees, was established in 1978 as a Thai NGO under the Catholic Bishops' Conference of Thailand (CBCT) to support income-generating activities to promote "Livelihood Projects"** in refugee camps, such as "Livelihood Fair." Each year, refugees will practice as vendors and customers to present household products such as soap, brooms, vegetables, fish and clothing. Livelihood projects are successful because they provide refugee with income to support their families.

Among other things, there are other INGOs that provide cash support or advocacy for refugee rights. For example, **Host International Thailand** supports education and services to improve the livelihood skills of refugees and asylum seekers, as well as their integration into local communities after refugee families are released from the Immigration Detention Centre (Host International Thailand, 2023). In addition, **UNHCR Thailand**, also supports Cash Based Interventions (CBIs) for those considered as the vulnerable group. For example, in the case of a Pakistani refugee family where, a woman was raising five children all by herself and needed full support for her daughter's education. She is concerned that her children will not have access to education, so UNHCR provides benefits to the children in terms of promoting integration through social cohesion in urban areas under the policy of "Education for All" (UNHCR Multi-Country Office Thailand, 2023, p. 2). From the above, it can be seen that income-generating activities can generate benefits for "refugees," but the lack of access to legitimate employment is a crucial challenge to self-reliance and achieving a better quality of life.

## **Methodology**

The qualitative methods will be used through in-depth interviews, sample population and direct observation. The research will focus on education levels, language skills, and work experience. These factors are linked to legal barriers in the country. They also explore the livelihood skills required for income-generating activities among urban refugees and asylum seekers in Bangkok by collecting data from Asylum Access Thailand (AAT) and the Jesuit Refugee Service (JRS), Thailand. The survey will be limited to 20 respondents (10 Ahmadi women and 10 Christian women), reflecting the relative population sizes from some 2,000 Pakistani refugees in Thailand by selecting 10 persons per group to ensure that data saturation can be achieved. These sample sizes were possible through assistance and identification from AAT and JRS, Thailand. In addition, four NGO staff from AAT and JRS will be asked for their views because selecting 2 staff per group will allow us to capture a range of perspectives with no additional data or new data.

## **Implication of the research**

The study aims to investigate the challenges in accessing livelihood programs for refugees in Thailand. Access to livelihood to refugees will rebuild their lives. Especially female-headed households in the Pakistani refugee community. They face economic dependence on their husbands, obstacles to accessing employment and limited decision-making power. Therefore, livelihood projects will support these women to generate income, reduce their economic vulnerability and enhance their self-reliance, as well as gain skills, knowledge, and confidence. In addition, the research will help identify the specific barriers refugees face in accessing livelihood programs due to the lack of legal rights to work and arrest before protection. It also helps to find out the effectiveness of refugee livelihood projects to assess which income-generating activities are most stable and profitable. It can increase refugees' self-reliance or provide them with the best possible access to the labor market. Giving them a platform to voice their opinions and concerns leads to the development of livelihood programs provided by INGOs. It can also be used to promote the right to work for refugees to access livelihood opportunities. In conclusion, the research can lead to more equitable and sustainable solutions for urban refugee communities.

## **Recommendations**

The Thai government should address the prejudiced attitude towards refugees first because most Thais think that only those with a well-founded fear of persecution, owing to their only political beliefs, are refugees. In fact, there is a basis for refugee status determination among five reasons: race, religion, nationality, membership of a particular social group, and political opinion

(The Refugee Convention, 1951, art. 33 (1)). In addition, Thai people should be informed about the realities of refugees through a variety of approaches, such as integrating lessons about refugees and their hardships into school curricula or launching public awareness campaigns to highlight the humanity and diverse backgrounds beyond political situations. If the Thai government recognizes this importance, it could reduce negative stereotypes and biases. Refugees and asylum seekers will be seen as contributors rather than burdens. In addition, Thailand should consider enhancing the stay rights of "protected persons." They should benefit from the right to work, which will increase livelihood opportunities for refugees for their long-term survival while preserving their dignity and not being a burden to the state. The right to work will fill labor shortages in Bangkok and demonstrate their potential to create a positive impact on Thai society.

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# ACTIVE NIHILISM FOR THE INDIGENIZATION OF THE ANTHROPOCENE: A REFRAMING OF SOCIAL INNOVATION AND SUSTAINABILITY FOR THE POSTHUMANITIES

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## Abstract

*This work presents the initial findings of the author's PhD research at Thammasat University's School Of Global Studies' Social Innovation and Sustainability program. This work engages in a discourse with Giovany Cajaiba-Santana's "Social Innovation: Moving the Field Forward a Conceptual Framework" (2014) and revisits its approaches to social innovation through the lens of critical philosophy developed after its publication. In the application of Roy Bhaskar's concepts of Epistemological Fallacy and Ontology of Emergence (2017) and Rosi Braidotti's "Theoretical Framework for the Critical Posthumanities (2018)", this research explores some ontological, semantic, and epistemological implications of revisiting critical social innovation theory. It draws the essential connection between social innovation and sustainability in their evolution as posthumanities, and through their intrinsic link as described by social innovation and sustainability scholars. Through a posthuman lens derived from the approaches to social science presented by Nietzsche's Thus Spoke Zarathustra and anthropologist Zoe Todd (2015 and 2016), this essay reframes social innovation and sustainability as 'active nihilism and the indigenization of the anthropocene.'*

**Keywords:** Social Innovation, Sustainability, Indigenization of the Anthropocene, Critical Posthumanities, Critical Theory, Nietzsche

## Introduction

That is the greatest error ever committed, the most disastrous error on earth: believing that in the forms of reason, we had in our possession a criterion of reality, whereas we had them in order to gain mastery over reality, in order to misunderstand it in a shrewd way... - And behold, the world became false precisely because of the qualities which constitute its reality: change, becoming, multiplicity, opposition, strife, war (Nietzsche, 1876)

What does it mean to have a reciprocal discourse on catastrophic end times and apocalyptic

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environmental change in a place where, over the last five hundred years, Indigenous peoples faced (and face) the end of worlds with the violent incursion of colonial ideologies and actions? What does it mean to hold, in simultaneous tension, stories of the Anthropocene in the past, present, and future? (Todd, 2016)

What struck me here was the unintentional (even ironic) evocation of theories about the climate as a form of *aer nullius* . . . where the climate acts as a blank commons to be populated by very Euro-Western theories of resilience, the Anthropocene, Actor Network Theory and other ideas that dominate the anthropological and climate change arenas of the moment. Of course, I extend due credit to Latour for framing it as a space of ‘cosmopolitical concern’ – which does make space for other ontologies and charismatic beings to exist within it, including the Inuit concept of *Sila*. However, my concern here is not really with Latour himself, but with how a Euro-Western audience consumes Latour’s argument (and the arguments of others writing and thinking about the climate, ontologies, our shared engagements with the world) without being aware of competing or similar discourses happening outside of the rock-star arenas of Euro-Western thought (Todd, 2017)

This paper is part of a thesis entitled *Navigating Cross-cultural Education on the Thai-Myanmar Border*, and it lays the foundation as a study in social innovation and sustainability. The concept and study of social innovation are advocated by social entrepreneurs, social scientists, and politicians alike (Cajaiba-Santana, 2014). It also brings with it the dualisms and paradoxes that have both plagued social science since its inception and been echoed in the study of globalized industry and its impacts. Classic dualisms, such as the micro-level of psychology and behavioral sciences versus the macro-levels of sociology, anthropology, and, in the modern era, global development, are compounded by concepts like agency, technological determinism, and structural determinism. Studying these elements also invokes notions on qualitative versus quantitative data, what they signify, and how this relationship relates to the mind-body dualism explored in the philosophy of science.

More broadly, materiality and reality become heavily laden in the theory and research of social innovation because of the history of humans and the institutions and technologies with which they cohabitate. Social innovation theory and practice have been framed as an intersection of disciplines, theories, and stakeholders (Phillips et al., 2023). Critical social innovation researchers write that both entrepreneurial practitioners and the development sector that supports them perpetuate an extension of the neoliberal economic school of the 1930s and its subsequent economic-political movement of the 1980s. Additionally, the heroism associated with social innovators in the private and third sectors, along with researcher-centered approaches, is criticized for creating a technocratic hierarchy.

## **Method**

This paper is a combination of findings from two papers currently in the works. This research employs discourse analysis of works including Giovany Cajaiba-Santana's *Social Innovation: Moving the field forward. A Conceptual Framework* (2014), William Clark and Alicia Harley's *Sustainability Science: Towards a Synthesis* (2019), and Rosi Braidotti's *A Theoretical Framework for the Posthumanities* (2019).

## **Findings**

The technological and organizational innovations emerging from the industrial, world war, and post-war eras have inspired specific *modus operandi* and *vivendi* in Western social science. Industrial production prevailed in offering well-being through science and the division of labor. It was then extended through the materialities of both socialism and Taylorism. Since then, historical and financial materialisms have been baked into both the ontology and epistemology of social science in the twenty-first century. These two approaches, along with their evolutions, critiques, and theories, have led to the development of a range of sciences that explore the relationships between individuals, technology, organizations, and society. Fields such as Science and Technology Studies, Organizational Development, and the history and philosophy of science have since explored the complex systems linking agency to society via innovations in communication, institutions, and their mechanisms. Ontologies, epistemologies, and theoretical approaches have been diligently developed and practiced by these social scientists in order to comprehend the immensity of the project now before them.

Social Entrepreneurship and the development sector now translate the economic materialism of capital into the materialisms of well-being through concepts and frameworks such as Social Return on Investment and the Triple Bottom Line. Critical approaches, which have wrestled with the historical materialism of Marx since the Frankfurt School, also derive their concepts of materialism from economy, production, and capital, and from their systematic discord with normative values, justice, and well-being. This dialectic of capital as a baseline of materiality and value in market, state, and civil institutions plays an essential role in the social impact of innovation. However, research on social innovation, including its theory and practice, transcends these limited interpretations of materiality. I propose that, as a social science, the study of social innovation is uniquely positioned to suspend overarching claims about historical or economic materialisms in order to establish new baselines and metrics for understanding the systems it examines.

In terms of both approach and epistemological foundations, social innovation literature reviews present the study of social innovation theory as most embodied in the political and entrepreneurial efforts of “corporate,” “neo-liberal,” “technocratic,” “instrumental,” or “weak” actors in social or humanitarian causes. This dominant practice is placed by five of the seven reviews in a dialectic with “critical,” “democratic,” “radical,” or “strong” theory and practice. The methodology of social innovation research is addressed by Cajaiba-Santana proposing “a third and hitherto underrepresented perspective where collective (and not only individual) action and the structural context co-evolve interactively in the process of social innovation creation.”

Institutional theory and Giddens' revision of structuration theory are used to address the delicate balance between the agency of individuals and the [structural context] social innovation is perceived as determined by . . .” Cajaiba-Santana presents a constructivist middle-range theory to address the specific dynamics of social innovation research. It is an attempt to balance micro- and macro-level processes, which often divide epistemology and methodological practices. This approach strikes a balance articulated through the cornerstone critical realist concept of constructivism: the 'constraining and enabling' nature of structure on agency.

There is a general consensus that the Schumpeterian approach is the root of modern perspectives on innovation and is accordingly evidenced in the dynamic between individual agency and technological determinism in Cajaiba-Santana's model. As a node labeled 'New Idea,' it serves as an initiating force in Cajaiba-Santana's constructivist process, which integrates structuration and institutionalization theories and bridges the innovator and the institution. Incorporating Science and Technology Studies while maintaining the epistemological relativism of constructivist theory, Cajaiba-Santana's *third-way* approach can also address the technological determinism implicitly embedded in the conversation.

William Clark and Alicia Harley provide a comprehensive look at the fields of sustainability science and sustainable development in *Sustainability Science: Towards a Synthesis* (2019). The two most relevant aspects are their descriptions of the relationships between society and sustainability and between innovation and sustainability. In discussing what they term (In)equity, Clark and Harley explain

Recent research in sustainability science has shown how thoroughly the elements of nature and society are intertwined...an immediate consequence [is that] talk of environmental-sustainability, or social-sustainability or other forms of hyphenated-sustainability [is] fundamentally misleading and at odds with the integrating aspirations of sustainability science. ...A research-informed use of the term sustainable should therefore always—and only—refer to the integrated pathways of development resulting from nature–society interactions in the Anthropocene System. ...The conclusion being that]... Realizing a vision of sustainability as fairness will require work to empower the individuals and groups that are most harmed by current development pathways: today's vulnerable communities and future generations.

However, Clark and Harley also reveal the limitations in how sustainability science and sustainable development integrate societal challenges. Intergenerational equity is a particular concern because, while sustainability science and sustainable development aim to serve future generations, this intention appears to be more evident in environmental justice than in social justice. This is evidenced by the fact that intergenerational equity is not explicitly addressed in the globally agreed-upon Sustainable Development Goals.

Clark and Harley describe innovation as the driver of sustainable development. Since a sustainable ecosystem has yet to be seen since the beginning of the anthropocene, novelty and creativity are necessary. Innovation and sustainable imaginaries (collective, guided visions of attainable futures) represent the pathway to a sustainable future. Ultimately, sustainability is intended as a platform for innovating ways to mobilize resources “to create inclusive well-being.” However, they point out a previous gap in sustainability science: the lack of empirical or conceptual study of the innovation process, including “incentives for invention, uptake of the results, their spread and displacement of existing ways of doing things, and ultimately the transformation of practices at system scale.”

In recent years, Rosi Braidotti has written and lectured extensively about the historical framing of modern science. Her essay, "Theoretical Framework of the Critical Posthumanities," frames fields that emerged in post-war Europe and became hallmarks of Western social science since the technological revolution of the 1990s as the *posthumanities*. The *corporate* and *sustainable posthumanities* are labeled as such because the historical evolution of these social sciences has involved a reconfiguration of humanity's role within the systems being studied.

The Humanism of the European Enlightenment introduced axioms, narratives, and material realities about what it meant to be human in both the world and society. The achievements of European science and industry thus became a baseline for understanding humanity. In dialectic with this movement, posthumanism questioned these materialities through thinkers and practitioners such as Spinoza and de Gouges. Following the historic questioning of ontological and epistemological certainty by Bohr and Heisenberg in 1927, the postmodern era sought to address these incongruities within the philosophy of science. During this time, *anti-human* and *anti-anthropocentric* ways of thinking critiqued the established roles within humanity (including gender, culture, and global society) and humanity's role in the natural world, respectively.

Braidotti distinguishes anti-human from posthuman approaches along the line that divides Hegelian and Spinozian ontologies. I apply this distinction to the contrast between Marx and Nietzsche. In terms of a conceptual framework for methodology, I believe this aligns with Roy Bhaskar's concept of epistemological fallacy. In his 2020 work, *The Ontology of the Person*, Bhaskar explains the significance of process ontology in establishing the dynamic between ontology and epistemology, which reveals the fallacy.

Braidotti encapsulates this shift after the postmodern era with the concepts of *neo-materialism* and *cartographies*. Drawing from Deleuze's object-centered ontology of immanence and Foucault's concept of biopolitics (the impact of governance on human bodies), the posthuman approach is more “localized” and “grounded.” These conceptual frames expand an ecosystem's materialism beyond the human in order to better grasp the system's dynamics. Research in these approaches were led by Braidotti and Donna Haraway. Similarly, Bruno Latour's Actor-Network Theory, introduced during the same time period, creates comparable conceptual dynamics. These authors center non-human agency around the relationship between humans and technology. To enrich and better delineate these

concepts, I propose two cartographically grounded materialisms I believe to align with Braidotti's vision of a posthuman approach. The first is anthropologist Zoe Todd's concept of *the indigenization of the Anthropocene*. The second is historian Willem van Schendel's concept of *Zomia* - the geographic area that spans from the Himalayan massif to the highlands of Vietnam - and its applications by historian James Scott and sociologist and refugee scholar Su-Ann Oh.

The essential materialism from Todd in this posthuman framing comes from her invalidation of Western science's exclusion of metaphysics from ontology. Just as Nietzsche criticized the atheistic materialism of Marx, Todd demonstrates how the ontological turn incorporates only 'demythologized' renditions of Indigenous Law and Science. Ontologically, cosmic entities are relegated to relativistic alternate realities. Todd arguably presents an epistemological fallacy of the posthumanities as a whole. While she critiques the ontological turn of Western science, to which scholars like Braidotti belong, she simultaneously stands at the cutting edge of posthumanism within the latter's framework. *Zomia* is physically a geographical massif and conceptually an approach to exploring intercultural and political dynamics based on the geographic realities of social space. It examines the relationship between the padi-states of lowland Southeast Asia and the surrounding non-state civil societies in their mountainous and maritime borderlands. The thesis of which this paper is a part will use *Zomia* as a conceptual approach.

## Conclusions

This study's findings indicate that social innovation and sustainability have a unique opportunity to capture the potential value of these ontological discourses and their epistemological implications. These fields can adopt process ontology to navigate beyond the economic binary of neoliberal and critical projects that gave rise to them.

Social innovation and social sustainability study the same phenomena and are nearly identical in scope. Sustainability needs to evolve in how it addresses social sustainability and innovation as an aspect of the anthropocene, social innovation needs to expand its conception of *social* and *innovation*, beyond the economic dualism of socialism and capitalism. differentiated by the anti-human emphasis of the former and the anti-anthropocentric focus of the latter. Sustainability science, as a whole, employs a systems approach that extends far beyond the scale of innovation studies. The inextricability of environmental and social sustainability connects society to this larger system, while the relationship between innovation and society brings the possibility of economically and socially sustainable solutions to current challenges.

Social innovation research encompasses cultivating our concepts of materiality through codification, indication, and quantification. It aims to establish adaptable reporting and accountability practices based on relevant metrics and their translations to and from local contexts. By building a conceptual bridge between agency and change, social innovation theory traces the trajectory from an individual's or organization's intentional actions to their impact on society. The conversation from social science over the past 150 years is embedded in social innovation approaches and methods.

Theories and their practitioners have honed specific agents and stakeholders within a system's tiers to define social innovation and its study (Howaldt et al., 2014). There is a wealth of writings on what defines social innovation. Acknowledging process ontology and epistemological fallacy would enable social innovation and sustainability to transcend relying on the anti-human focus of identifying stakeholder and beneficiary nodes on a stakeholder map.

Identifying state and civic institutions, economic markets, marginalized communities, and various stakeholders, agents, and beneficiaries to define the parameters of social innovation semantically reflects the dualisms it encounters in its philosophy and practice. The study's definition reveals challenges it faces in theorizing, reporting, and accounting for materiality. This gap is reflected in challenges in theorizing, reporting, and accounting for materiality. It is evident in the field of international development, as noted by Su-Ann Oh in the context of Myanmar (2016, p. 192). The Thai-Myanmar border consists of "multiple economies," yet scholarship "tended to focus on the work and lives of Burmese migrants employed in the neoliberal economy or the beneficiaries of the humanitarian economy (Lang 2002; Decha Tangseefa 2006; Hull 2009; Lanjouw et al., 2000), keeping the two separate and discrete." In order to synthesize these economic materialities and examine the processes which align the agency of individuals and collectives with more significant societal change, the codification or creation of new baselines of materiality is essential. A definition of agency in social change could provide a baseline of materiality for social innovation, serving as a common denominator and overcoming the limitations of research that traditionally presumes agency solely in terms of economy.

Zoe Todd addresses the potential significance for sustainable development in the opening citation of this paper and provides further examples through Rosemarie Kuptana and Suzie Napayok's discussion of the conceptual presence of Inuit scientific knowledge in multilateral development

The interconnections between ecosystems and their impact on humans and other living beings . . . the environmental and star alignment changes Inuit elders and young people were talking about in the 1970s on Banks Island are finally being discussed in the world's capitals. . . . Inuit *Ilitqusia* has its roots and principles in the belief that the world around us and life itself are interdependent, interrelated, inter-dimensional, multi-disciplined, interconnected, intergenerational, evolving, and holistic

Just as Newtonian and Leibnizian Calculus could only be entertained as metaphysics until twentieth-century mathematicians created a new baseline in number theory (Boyer, 1943), and just as Niels Bohr questioned the impact of the definition of matter and chose the Ying Yang for his coat of arms and Oppenheimer expressed his new understanding of reality with Vedic cosmology: as western social science evolves, it must simultaneously disenchant itself from its own ontologies and epistemology. The intentional move towards emergent and process-based ways of reality solidified with the coming twenty-first century.

Science and Technology Studies and Organization Development utilize Actor-Network Theory, Sociotechnological Theory, Behaviorism, Action Research, and the latter's concept of agents of change to address the dualism of micro and macro phenomena. Alfred Whitehead proposed process ontology to address the mind-body dualism that has plagued the materialism of Western science and mathematics. The question now is how these approaches can be integrated to develop methods for exploring and expressing the depth of social change and the agential movements that drive it.

As social innovation theory embodies the dialectic of capital, definitions of social innovation revolve around agents of change in economic sectors. The definition of social innovation may be reduced to *agency generating social change*. This definition builds on Zapf's (2003, as cited in Howaldt et al., 2014) framing of social innovation as a "process of change in the social structure of a society in its constitutive institutions, cultural patterns, associated social actions and conscious awareness (Zapf, 2003, p. 427)." A focus on agency is not in an attempt to negate previous or future discussions on the definition of innovation, the nuances of its *newness*, or the complex dynamics of surrounding systems of stakeholders. It aims to explore holistic and cohesive axioms and baselines. A materialism of agency unrestricted by the parameters of specific agents allows social innovation theory over this semantic hurdle without inhibiting the processes of human agency seen in constructivist epistemology.



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# **NARRATING POSITIVE YOUTH DEVELOPMENT WITHIN RELIGIOUS MODERATION ACTIVISM: CASE STUDY OF INDONESIAN YOUNG INITIATOR FOR RELIGIOUS MODERATION**

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## **Abstract**

This paper portrays the engagement of Indonesian Madrasa's students in nurturing religious moderation principles within multifaith societies. Religious moderation was essential for creating a harmonious life. It has been applied to address various concerns, including religious violence and the promotion of inter-faith harmony. This study aims to implement the 'positive youth development' notion by elucidating the attributes of young individuals from specific regions around Indonesia, promoting religious moderation through diverse methods and endeavors. This notion emphasizes the action of Indonesian Young Initiator for Religious Moderation in the three largest multicultural cities Medan (North Sumatera), Bali, and Malang (East Java). A digital ethnography approach was used to explore the program and inventions the Indonesian Young Initiator initiated for Religious Moderation. The interview was conducted by involving the Directorate of Curriculum, Institutional Facilities, Madrasa's Student Affairs, and Young Initiator for Religious Moderation. This research contends that the correlation between positive youth development notion and the government is undeniable in disseminating religious moderation principles to societies. This program successfully garnered a substantial amount of attention, and it attracted interfaith communities that are generally seen as divided by sectarianism to rally behind their beliefs. The results revealed that the presence of these agendas enhances Indonesian youth's understanding of religious moderation values, and harmonizes the current situation of inter-faith interactions in Indonesia. These factors play a crucial role in fostering harmonious coexistence amidst diversity.

**Keywords:** Positive youth development, religious moderation, Indonesian young initiator

## **Introduction**

The function of youth in shaping the future worldview and society is significant (Sukarieh et al., 2014). Youth are frequently labeled as the architects of the future by those in positions of power. Yet, they are also vilified and regarded with fear as 'disruptive' individuals who are inclined towards radicalism and deviant behavior (Bayat et al., 2010). This group is

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inspired by religion and may promote either intolerance or tolerance. Religion has a significant role in shaping youth's identities, values, and beliefs. The moral and ethical teachings provided by the religion might influence the perspectives of youths toward tolerance and intolerance.

Religion encompasses the principles of tolerance, empathy, and compassion (Rahman, 2021). Youths tend to exhibit greater levels of tolerance when they are exposed to religious education that actively encourages tolerance and comprehension of religious customs and convictions held by others (Augsberger et al., 2020). Unfortunately, I almost find that strong religious ideologies or intolerance occasionally influence young individuals, leading to instances of injustice and conflict. Specific factions provoke youth into embracing radicalism through religious means.

The primary challenge youths face in the contemporary world is their susceptibility to extremism and radicalism. When it comes to interfaith issues, scholars refer to those who have a passive approach to tackling the increasing religious intolerance as the 'silent majority' (Abuza, 2007). This phenomenon is evident in numerous instances of religious radicalism and extremism that specifically concern young people. Studies suggest that a substantial proportion of individuals involved in or endorsing religious radicalism and extremism are well-educated young people. This is undeniably alarming and should cause significant concern among pertinent government and societal stakeholders (Mendel, 2022). Furthermore, it has raised concerns regarding the intersection of young individuals and religious beliefs.

This research aims to address the following inquiries. What factors contributed by Indonesian Young Initiators for Religious Moderation to the understanding of religious moderation within youth's and society's activities? I will trace each Madrasa's student strategy in disseminating the principles of religious moderation in the contemporary world. Likewise, measuring the events can be implemented to mitigate divides and animosity among religious communities in a multicultural society.

## **Methodology**

This study uses a qualitative method with digital ethnography and a case study approach to explore on-site and online programs addressing religious moderation issues in Indonesia's largest multicultural city. The research was conducted on the Directorate of Curriculum, Institutional Facilities, and Madrasa's Student Affairs Ministry of Religious Affairs, Republic of Indonesia, and *Madrasa āliyah*'s students hailing from diverse places like Bali, Medan, and Malang were studied through interviews, observations, and focus group discussions (FGD). The three regions were selected as the research locus due to their status as the winners of Indonesian Young Initiator for Religious Moderation 2023 and their representation of distinct islands. Interviews were performed remotely using the Zoom platform. The selection of informants is conducted through the utilization of theoretical and purposive sampling methods, to achieve the research objective (Denzin et al., 2005).

The informants have emerged as the winner of Indonesian Young Initiator for Religious Moderation 2023. Aisah Nalah from *Madrassa āliya Negeri 1 Jembrana*, Bali. Who successfully spearheaded the "*Nyama Braya*" social campaign. Secondly, Fatimah Muharrami from *Madrassa āliya Negeri 1 Medan*. Who initiated an application on TUDARA Apps to foster the cohesive existence of digital interfaith communities. Thirdly, Sholihatul Maulida student at *Madrassa āliya Negeri 1 Malang*. Who invented a remarkable program called "*Tangan Bima*" which aims to promote the collaboration between Muslims and non-Muslims in safeguarding the environment. Last but not least, I interviewed the Director of Curriculum, Institutional Facilities, and Madrasa's Student Affairs Ministry of Religious Affairs, Republic of Indonesia, who serves as the primary organizer and facilitator of Indonesian Young Initiator for Religious Moderation 2023 under the instruction of The Ministry of Religious Affairs of The Republic of Indonesia.

The data from the interview are gathered through a semi-structured interview approach, where the questions are openly examined and articulated following the study framework (Ruslin et al., 2022). Simultaneously, as stated by Creswell the utilization of triangulation data is imperative to acquire more thorough findings using interviews, observations, and data analysis (2018). To enhance the dependability and accuracy of the data, this study used triangulation by conducting interviews with both selected Madrasa āliya's students, the Directorate of Curriculum, Institutional Facilities, and Madrasa's Student Affairs Ministry of Religious Affairs of The Republic of Indonesia, and Indonesian citizens to investigate their respective societal roles. Subsequently, the actions undertaken by the Indonesian Young Initiator for Religious Moderation were carefully observed regarding the concept of 'positive youth development'. Once the data was gathered, a thorough analysis was conducted, leading to the formulation of findings.

### **Conceptual Framework**

Positive Youth Development is the active participation of young individuals, their families, communities, and/or governments to enable youths to achieve their maximum capabilities (Damon, 2004). Positive Youth Development (PYD) strategies focus on enhancing individuals' abilities, resources, and capabilities, promoting positive connections with others, fortifying the surrounding conditions, and bringing about fundamental changes in systems (Krasny, 2020).

The four domains of positive youth development (PYD) are assets, agency, contribution, and enabling environment (Catalano et al., 2004);

- Assets: Youth possess the essential resources, abilities, and competencies required to attain targeted results.
- Agency: Youth possess the perception and capability to utilize their resources and ambitions to make or impact their own choices regarding their lives and establish their objectives, as well as to take action to get desired results.
- Contribution: Youth actively participate in driving good change for both their personal

growth and the betterment of their communities.

- Favorable conditions: Young individuals are immersed in an environment that fosters and nurtures their strengths, autonomy, access to resources, and prospects while enhancing their capacity to evade hazards and maintain a state of safety, security, and protection, free from the threat of violence or retaliation. A conducive atmosphere fosters and acknowledges the youth while cultivating their social and emotional skills to flourish. The term "environment" should be understood comprehensively, encompassing several aspects such as social (interactions with peers and adults), normative (attitudes, norms, and beliefs), structural (laws, policies, programs, services, and systems), and physical (safe and supportive environments).

There are seven distinct characteristics of Positive Youth Development (PYD):

1. Skill Building
2. Youth's Involvement and Participation
3. Establishing and maintaining healthy relationships and fostering strong bonds.
4. Experiencing a sense of belonging and being part of a group or community.
5. Positive Norms, Expectations and Perceptions.
6. Safe Public Space.
7. Provision of suitable and accessible programming for young people; Integration of services (Petersen, 2016).

The following characteristics will be outlined in the approach to the role of youth (Madrasa āliya's students) engagement in the dissemination and promotion of religious moderation principles that have consistently been advocated by the Ministry of Religious Affairs of The Republic of Indonesia within the societies through diverse activities and delivery methods.

## **Findings**

This study seeks to examine the contemporary millennial generation's manifestation and comprehension of religious moderation, radicalism, and extremism, employing Manheim's overarching theoretical framework (Mannheim, 1975). A prevailing claim made in media and policy circles is that Muslim youth constitute the driving force behind radical religion and politics in the Islamic mainland and Europe, and hence pose a serious security threat worldwide (Behneer, 2007).

In recent decades, the Indonesian government and academics have increasingly focused their attention on the escalating menace of radicalism and extremism. Furthermore, it has impacted political polarization and societal anxiety. Therefore, it is crucial to identify social environments that can foster positive intergroup relationships and prevent radicalization on a broader societal level. *Madrasa* settings have been proposed as having the capacity to both deter and foster radicalization and extremism among Muslim youth. The government views the comparatively

youthful population as a 'demographic advantage' that will bring benefits to the country in the future (McDonald, 2014). However, not much research has looked into this specifically. In light of this, this paper set out to create a scale that could accurately measure Madrasah Aliyah's resistance to radicalization and extremism through the program that had been implemented in their milieu.

Additionally, the development of religious moderation has a legal basis, as contained in Article 29 of Undang-Undang Dasar 1945 about Freedom of Religion. In more detail, religious moderation has also become a strategic issue for the Indonesian nation, as stipulated in presidential regulation Number 18, 2020 concerning the National Medium-Term Development Plan for 2020-2024, which serves as a guideline for national development planning.

The youths possess immense capacity to actively resist bigotry and advocate for tolerance. Individuals have the opportunity to participate in many social initiatives and events that promote interreligious comprehension and collaborate to tackle societal problems. Simultaneously, the Indonesian government has recently supported the youth's engagement in societies or movements to disseminate religious moderation values and principles. This endorsement comes through a program initiated by The Ministry of Religious Affairs of The Republic of Indonesia called Indonesian Young Initiator for Religious Moderation. Recognizing the significant population of Madrasa's students, the country has acknowledged its potential to contribute to its growth (Saud, 2020). Therefore, the position of this government has created a favorable environment for the growth of young activism in promoting the principles of moderation and combating divides on national issues.

## **Result and Discussion**

The youths can exert a substantial impact on the transformation of society. They can lead and initiate efforts that promote religious tolerance and motivate positive transformation (Pajarianto et al., 2023). An inclusive approach should be adopted in efforts to promote religious tolerance among teenagers, considering the diversity of their beliefs and cultural origins. It is crucial to understand that young people are different groups and can have diverse perspectives on religion and tolerance (Park, 2004). Education, discourse, and social interaction can significantly contribute to the development of young individuals (Coles, 2005) who embrace the principles of interreligious communities and promote tolerance.

The Ministry of Religious Affairs of the Republic of Indonesia has expressed growing worry over the lack of religious moderation understanding among youths. To stimulate the youth's attention on religious moderation, the Indonesian Young Initiator for Religious Moderation was conducted to overcome a million anxieties and worries by implementing seven distinct characteristics of Positive Youth Development (PYD) by Petersen (Holt, 2016) in several activities below:

### **1) Skill Building**

The Ministry of Religious Affairs of the Republic of Indonesia conducted ToT (Training of Trainers) for a group of TOP 40 *Madrasa āliya's* students who were selected

as the finalists. To acquire a thorough comprehension of the fundamental aspects of religious moderation and its subsequent application in a future societal endeavor.



Figure 1. On the left depicts the Director of Islamic Education (Ali Ramdhani) delivering a presentation on religious moderation. While the right captures the Directorate of KSKK gathering for a group photo session following the event.

This may encompass technical proficiencies; yet, it is imperative to incorporate soft and living skills as well. Explore methods to integrate activities that enhance skill development in various contexts, such as individual, family, peer, and community settings.

## 2) Youth's Involvement and Participation

Facilitate diverse forms of youth involvement. This encompasses youth expression, youth engagement in community service, and fostering possibilities for youth participation in decision-making processes across several tiers of government. This may encompass initiatives that facilitate youth participation or programs that foster youth leadership. Examine the next section of this guidance for various models and degrees of young participation that can be taken into account when developing programs, based on the particular context and circumstances.



Figure 2. The left photo depicts the Former Minister of Religious Affairs of the Republic of Indonesia (Lukman Hakim) actively engaging *Madrasa āliya*'s students in the Salaam Summit 2023 event, where they simulate the resolution of religious discrimination issues prevalent in society. Which took place on the left side, one of the Indonesian Young Initiator for Religious Moderation finalists Fani Fatimah Azzahra (Student at Private *Madrasa āliya* Al-Mu'awanah, Bandung) delivered a speech about the urgency of religious



moderation to harmonious life at the *Masa Ta'aruf Siswa Madrasa* event.

3) Establishing and maintaining healthy relationships and fostering strong bonds.

Facilitate the identification and establishment of connections between young individuals and influential adult figures such as role models, mentors, coaches, teachers, health care professionals, and community leaders who have a positive impact on their lives. Ideally, young individuals should have at least one kind and unwavering adult figure in their lives. Robust social connections are of utmost significance to young individuals.



Figure 3. Displayed depicts Aisah Nalah, a student at MAN 1 Jembrana Bali, engaging in communication in the church and *pura* with other individuals associated with RCF (*Religious Communication Forum*), preparing collaborative events.

4) Experiencing a sense of belonging and being part of a group or community.

Promote inclusive activities that foster a sense of belonging among young people, irrespective of their gender, ethnicity, sexual orientation, impairments, or other relevant criteria. Enumerate activities that foster a favorable sense of inclusion, such as educational institutions, athletic endeavors, community engagement, and religious youth organizations.

5) Positive Norms, Expectations and Perceptions

Establish unambiguous, uniform standards, and anticipations regarding health, relationships, and modes of involvement that grant adolescents a greater degree of accountability and autonomy, enabling them to develop and assume novel responsibilities.

6) Safe Public Space

Establish secure communal areas that are specifically designed to cater to the requirements of young individuals, encompassing both tangible structures and psychological well-being. Space can be described in multiple ways, encompassing the concept of virtual space as well. Numerous localities are devoid of any designated area for young people to gather. Therefore, communities must be dedicated to offering young people secure environments where they may actively participate, explore, and develop their creative and collaborative skills. An environment that provides emotional security is essential for the process of acquiring knowledge. When possible, it is advisable to involve young individuals in the development of these areas to guarantee that they are not



only secure but also inspiring for young people. This can foster enthusiasm and a feeling of possession among young people.

- 7) Provision of suitable and accessible programming for young people; integration of services.

Facilitating the accessibility of information for young individuals and families, establishing connections and merging health, social, and additional services ensures a seamless provision of care and support within the community. Indonesian Young Initiator for Religious Moderation-*related* programming encompasses various services such as establishing institutionalized civic engagement mechanisms within government institutions to enhance government-citizen relationships, offering advocacy or civic education training by CSOs, and providing legal services through access to justice programs, among other possibilities.

When considering the concept of "youth" it is important to exercise caution in avoiding oversimplification. This is because young individuals possess various intersecting identities, including but not limited to gender, religion, disability, and ethnicity. Hence, it is imperative to consider inclusive development comprehensively, encompassing the involvement of young individuals (and positive youth development) from several viewpoints.

## **Conclusion**

Research has indicated that fostering tolerance and resistance to radicalism has a significant role in shaping a well-rounded religious outlook among youths from the millennial generation. Indonesian Young Initiator for Religious Moderation possesses the capacity to uphold the fundamental values of the nation, such as fostering unity among many ethnicities, races, customs, languages, and faiths. They can adopt an unbiased perspective, show respect for others, appreciate diversity among different groups, promote love, display open-mindedness, and advocate for peace. Indonesian Young Initiator for Religious Moderation possesses the capacity to actively contribute to the advancement of Indonesian national objectives and the preservation of the unity of the Republic of Indonesia. They represent the forthcoming generation and hold significant power.

These actions require the support of the community through community initiatives in both formal and informal settings; they cannot be achieved by an individual working alone. The development of tolerance can begin with even the smallest aspects inside one's community, promoting ideals of acceptance and open-mindedness. Furthermore, it can be cultivated inside formal educational institutions, ranging from early childhood education to higher levels of academics, where curricula actively include the revered ideals of Pancasila. In the end, the highest point can be achieved by implementing governmental policies on moderation attitude in all aspects of life. The obligation does not just lie with the Ministry of Religious Affairs instead. which efficiently oversees Indonesia's religious community's structure. However, the duty lies with the entire governmental structure and all sectors of society in Indonesia.

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# DECENTRALIZING THE SEAS: EMPOWERING LOCAL VOICE FOR SUSTAINABLE MARINE FISHERIES

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## **Abstract**

This study explores the concept of democratic decentralization as the potential solution for reducing the struggle to address limited local knowledge and stakeholder participation. Enhancing the local voice leads to the sustainability of marine fisheries by preventing the increasing pressure from overfishing, environmental degradation, and climate change. Decentralization refers to the transfer of authority from the central or national government to the local government or authoritative group, particularly in political, fiscal, administrative, and economic decision-making. It is, likewise, shifting decision-making power from national governments to local fishing communities. There are several benefits to this approach. For instance, fostering responsibility, accountability, and a sense of ownership as local community inclusion. In addition, decentralization would allow more exact regulations tailored to the specifics of each fisheries sector's ecological and social conditions. Through this, the local community has improved management practices by being involved. However, decentralization also presents challenges, such as local authorities needing more resources and capacity for effective fisheries management systems such as community-based fisheries management. Moreover, coordination challenges are caused by multiple normative orders from different sources of legitimacy and authority—as powerful local actors could manipulate decentralized systems for personal gain and undermine sustainable efforts.

The paper examines the potential benefits of decentralization, such as fostering responsibility and accountability and fitting with local needs. However, it will also analyze the potential risks, such as limited capacity and elite manipulations, by utilizing and analyzing the examples of decentralized fisheries management, success, and challenges. The study argues that revealing patterns of decentralization fostered local participation while ensuring the sustainability of marine fisheries. This study is part of the thesis with similar title as this paper's title.

**Keywords:** Decentralization, Fisheries Management, Marine Resources, local Communities, Sustainable Development

## **Introduction**

Marine fisheries, especially those providing seafood, are critical in human and global food security. With rising fish consumption and healthy demand for seafood, fisheries, particularly in Asia-Pacific, play a significant economic role. They contribute significantly to national economies through foreign exchange earnings from exports, supplying vital protein for food security, and creating employment opportunities. Small-scale inshore fisheries also play a vital role in the socioeconomic well-being of coastal communities worldwide. These fisheries can provide livelihoods for some of society's most vulnerable populations, such as the urban poor and stateless immigrants, acting as a social safety net for food security and

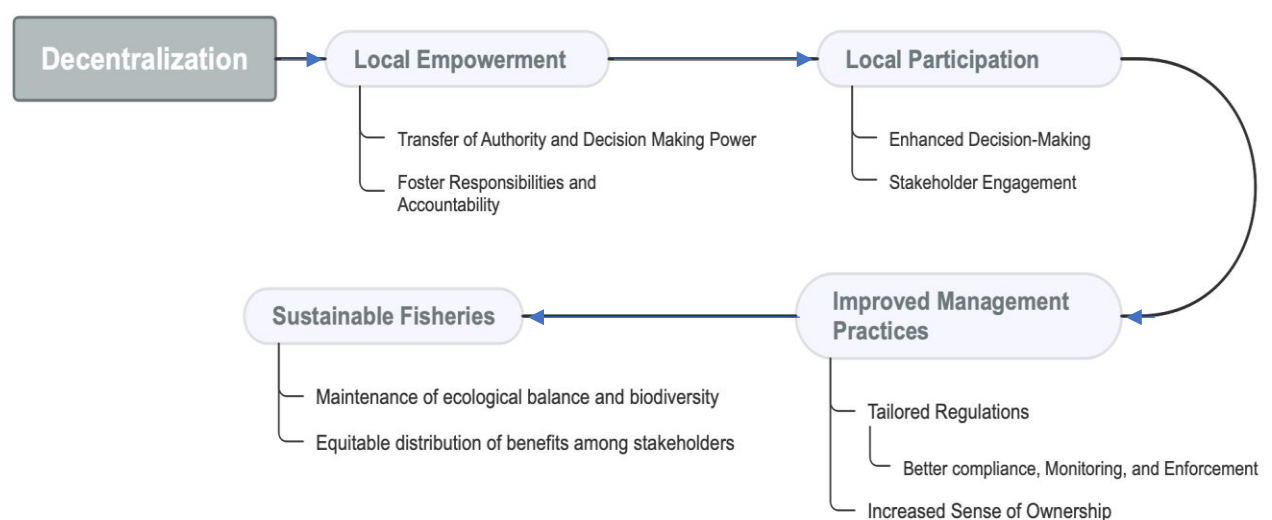
community well-being. Fishing practices have intensified, leading to environmental degradation and depletion of ocean resources. This includes damage to coastal ecosystems and even contributes to climate change (Amin et al., 2022)—new technologies for fishing and rising seafood consumption further greater extraction of these resources. Smallholder fishermen are already feeling the consequences, particularly those relying on inshore driftnet fishing. They face a decline in catches due to overexploitation and competition from larger, illegal offshore boats.

Additionally, destructive fishing methods and rising industry costs add to their struggles. However, dealing with the national governments' preparation regarding its potential socio-ecological outfall is still an issue, and weaknesses are present, such as the knowledge gaps in this sector. Furthermore, considering the secondary role rather than industrial fisheries from the government, small-scale fisheries need better monitoring and accounting of the catch productions. Consequently, the inequitable distribution of resources cannot improve the small-scale sectors (Teh & Pauly, 2018). These background factors resulted in management challenges to the sustainability of marine fisheries. To solve these challenges, this study will explore the potential for reducing the struggle to address limited local knowledge and stakeholder participation, which is decentralization. Furthermore, enhancing the local voice leads to the sustainability of marine fisheries by preventing the increasing pressure from overfishing, environmental degradation, and climate change.

## Research Method

This qualitative secondary study reviews academic journals, NGO reports, media coverage, and personal fieldwork observations to examine the fisheries sectors in Myanmar. The analysis was conducted using the decentralization concept to analyze the benefits and challenges and reveal patterns of decentralized local participation that foster the sustainability of marine fisheries.

## Theoretical Framework



## **Results and Discussion**

Decentralization refers to the transfer of authority from the central government to the local government or authoritative group, particularly in political, fiscal, administrative, and economic decision-making. Most scholars who have studied the concept of decentralization pointed out and suggested that this can promote public participation in the sectors. It supports efficient decision-making and the implementation process. Suppose the features of decentralization are applied in economic sectors. If that happens, there will be changes to promote greater public participation and more equitable and effective methods of local development and management (Kessy, 2013). Decentralization in fisheries management goes beyond just transferring power. Some scholars argue that it should also involve the inclusion and empowerment of local communities. This approach can make governments more responsive to the needs of marginalized citizens and improve overall economic sustainability (Béné et al., 2009).

Decentralization is a potential tool for poverty reduction. It compels us to consider the roles of various stakeholders - central government, local government, and local communities - and how power and accountability are distributed. Decentralization can be particularly significant for natural resources like fisheries. Local control over resources can be a source of revenue and legitimacy for new local governments, but it also requires restructuring institutions to ensure equitable sharing of benefits (Béné et al., 2009). This is crucial, as the success of decentralization reforms can dramatically impact the lives of the rural poor who heavily rely on fisheries for their livelihoods. Decentralization in fisheries management can also be seen as a form of local democracy. Many developing nations have embraced this approach, incorporating local participation in fisheries policy through community-based management models. This shift from centralized planning to local involvement highlights the pioneering role of developing countries in decentralizing fisheries management. While similar trends can be seen in other sectors, the discussion in fisheries took a distinct path, moving away from centralized control in the 1980s in favor of local engagement (Béné et al., 2009).

### **Potential Benefits and Challenges of Decentralization**

The study on the decentralization policies of Indonesia's community-based fisheries management system has quite positive effects, which enhance and transfer the power to create a community-based fisheries management system for the local community. The truth is that using *awig-awigs* effectively to stop damaging fishing methods is essential for sustainably managing marine resources. Also supporting the local community's sense of stewardship of the fishery resources was the form of *awig-awigs*, which was based on bottom-up planning and a participatory approach (Satria & Matsida, 2004). Consequently, "the local people have more opportunity to strengthen their institution, including revitalizing traditional fishing norms, capacity building of Marine Stewardship Council, developing mutual collaboration with other fishers associations and NGOs, and developing economic activities (Satria & Matsida, 2004)". These issues suggest that decentralization in fisheries, particularly devolving, is valuable for supporting sustainable development, resolving potential socio-economic problems, and addressing political instability during the Reform era (Satria & Matsida, 2004). According to this study, Decentralization in Indonesia's fisheries fostered local empowerment and participation by transferring decision-making power and enhancing accountability. From those efforts, the local community has more opportunities to strengthen its institution through tailored regulations based on ecological and social conditions and an increasing sense of ownership. These practices leading to sustainable fisheries include ecological balance, diversity, and equitable distribution.

Research by Béné et al. (2009) categorizes decentralization into three main types: devolution, deconcentration (also known as administrative decentralization), and territorial decentralization.

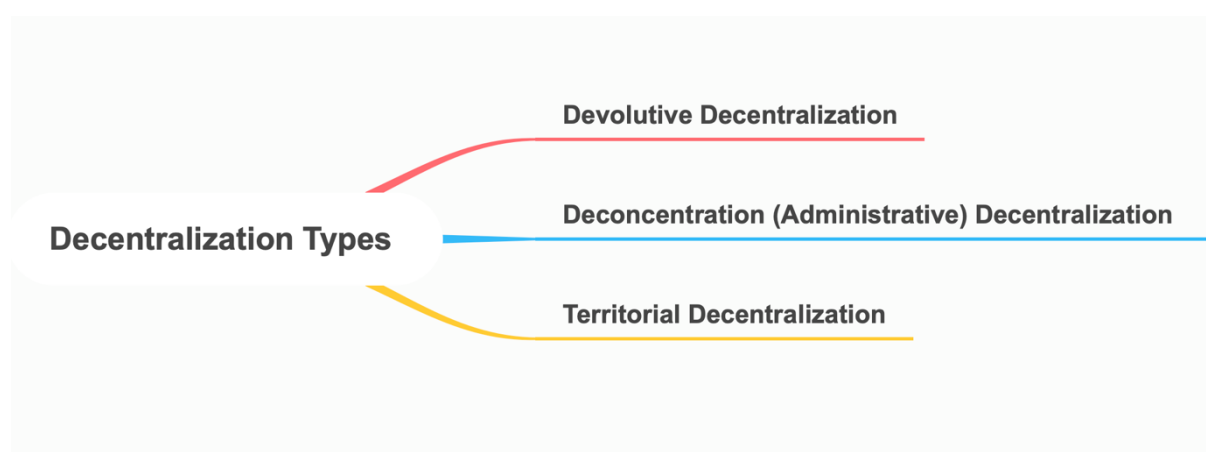


Figure: "Decentralization" (Adapted from Béné et al., 2009)

Devolutive decentralization has resulted in the delegation of authority from the national government (such as the Department of Fisheries DoF) to user group representatives at the local level (CBOs, fisher cooperatives). In this approach, the community-based and co-management systems—both of which are examples of devolution—were crucial. Devolution creates community-based and co-management reforms. However, creating CBOs did not guarantee a successful devolution process. The local community has just the endorsement of the administration body, not legal and technical support for co-management and community-based management. Due to challenges in the capacity of community-based devolution bodies, the accountability of fisheries management is affected. Generally, this type of decentralization still challenges being downwardly accountable to the fishing community members (Béné et al., 2009).

Devolutive decentralization aims to empower local communities by establishing co-management structures, like community-based fisheries management bodies. However, challenges like limited resources, unequal inclusion, and insufficient capacity for effective management can hinder smooth decentralization and ultimately harm sustainable fisheries. The Community-Based Fisheries Management (CBFM) project was established in the context of political reforms in Myanmar for small-scale inland freshwater fisheries. It also functions as a co-management model for managing fisheries. However, the local community still has gaps in its understanding of freshwater fisheries resources, which is problematic for Community-Based Fisheries Management (CBFM) projects.

The outdated and insufficient regulatory frameworks are further impeding simple, effective devolution reforms in Myanmar's inland fisheries. There is a major lack of local capacity for community-based approaches to managing natural resources surrounding this CBFM and decentralization process (Tezzo, 2020). Because of this, even though community-based management (CBFM) has a significant chance of reducing resource conflicts, there are numerous obstacles in the way of putting CBFM and co-management into practice in Myanmar's inland freshwater fisheries.

Changes in decision-making authority to the lower-level units of the technical line-ministry agency are a feature of deconcentration kind of decentralization (i.e., provincial and

district levels of the DoF). Due to the administrative decentralization type, the institution is attempting to allow DoF's provincial, district, and commune-level authorities to make decisions. Deconcentration bodies were also intimately associated with the decentralization process implemented simultaneously across the nation (for example, political and public administrations but not technical services for natural resource management). However, the agents in charge of deconcentrated fisheries offices typically have only delegated power from central authorities. Therefore, according to previous research on deconcentration, they have little autonomy in decision-making. Additionally, a lack of capacity at the DoF's Deconcentration levels can increase obstacles to decision-making at those levels. As an illustration, consider the ongoing efforts of the central treasury to oppose the decentralization of management of limited resources. These factors severely restrict the deconcentrated agencies' ability to interact with local users and their financial and decision-making autonomy (Béné et al., 2009).

Studies on decentralization in fisheries management (Béné et al., 2009) show that despite efforts, small-scale fisheries are often left out of decision-making. This means the needs and realities of fishing communities, along with limits on fish populations, are rarely considered by local authorities when planning and taking action. In Myanmar, the current system combines territorial and administrative governance, making it different from decentralization models seen elsewhere. This lack of true decentralization, particularly for small-scale fisheries, leads to weak co-management systems and a lack of monitoring during reforms.

The abuses and challenges arising from the centralized policies and unsuccessful decentralization reforms in fisheries include grievances faced by the local fishing community and the delay in the country's economic reform. In addition, legal barriers, inconsistent laws, and policies that remain deeply entrenched in the administrative institutions lead to challenges to decentralized reforms. In Myanmar, most decision-making processes are far from the local people's participation and rarely involve the local community's roles in the decentralization process. Except for the Devolutive decentralization (devolution) type inland fisheries, there is nothing about the roles and the rights of the local and marginalized community to participate in fisheries management decision-making.

In this decentralizing effort, trying to decentralize with the participation of community-based approaches, in reality, has many limitations, such as legal and technical support to enhance the capacity of the local community. There are still unsuccessful reforms to decentralization, and the local community cannot fully access the rights to participation in decision-making and the rights to self-determination over their natural resource management. The other potentially inaccessible rights of the local community are the right to information and development. The 2008 Constitution and the 1990 Myanmar Fisheries Law do not explicitly outline other decentralization approaches like deconcentration (administrative) or territorial decentralization for fisheries management. Decentralization is often seen as a solution for managing complex issues like political and economic conflicts in fisheries. It could help reduce overfishing, environmental damage, and the effects of climate change. However, putting decentralization into practice is challenging. Legal hurdles, lack of resources, and poor implementation can all hinder progress. In Myanmar's fisheries sector, these challenges are particularly significant.

Decentralization often involves creating tailored regulations that fit the specific needs of local communities. This approach aligns with legal pluralism, which recognizes the existence of multiple legal systems within a single country. In the context of decentralization, legal pluralism allows the incorporation of local customary laws and practices alongside national regulations for improved fisheries management. "Legal pluralism- the coexistence and interaction of multiple normative orders with different sources of legitimacy and authority



explain the dynamic nature of local institutions under decentralization" (Benjamin, 2008). Legal pluralism is the coexistence of two or more legal systems in the same social setting, and it refers to various legal systems within a single (human) population. Additionally, legal pluralism recognizes normative and institutional diversity to influence human behavior rather than viewing the state or government as an exclusive or superior regulating authority (Rohe et al., 2019).

The legal pluralism perspective impacts the Natural Resource Management Sector; the natural resource management case study in two Pacific island countries, Fiji and Solomon Islands, includes analyzing the legal pluralism perspective on coastal fisheries management. In those two islands, customary marine tenure systems, which allow the customary rights holders ownership over marine areas, have been widely used since the post-colonial era. As a result, the customary systems, led by customary leaders, were robust in the area (Rohe et al., 2019). In addition, national registrations regulate different approaches to improving fisheries management. This study explores the interactions between national and customary governance systems using typology links between legal systems in a governance pattern. Legal procedures can be categorized into indifference and competition (types 1 and 2, respectively) and accommodation and mutual support (types 3 and 4, respectively).

### Typology of Relations Between Legal Systems

| <b>Quality</b>     | <b>Intensity</b>      |                         |
|--------------------|-----------------------|-------------------------|
|                    | <b>Weak relations</b> | <b>Strong relations</b> |
| <b>Contrary</b>    | Type 1: Indifference  | Type 2: Competition     |
| <b>Affirmative</b> | Type 3: Accommodation | Type 4: Mutual support  |

*Adopted from Rohe, I., Boedel, H., & Davidsen, N. (2019). Legal pluralism and decentralization in community-based natural resource management: A typology of relations between legal systems. Journal of Environmental Law, 31(2), 393-423.*

Type 1, for instance, points to "Indifference [that] refers to a lack of operational overlap across governmental systems" (Rohe et al., 2019). Solomon Island is an excellent example of this typology, demonstrating weaker links between the two governments than in other types. Implementing and enforcing national fisheries legislation is difficult due to the geographic and logistical distance between governments and communities. The provincial governments in the Solomon Islands are responsible for enforcing national legislation. However, they need adequate financing, a clear understanding of their tasks and responsibilities, and weak relations with the national government. Therefore, regulations and the government only have a minor role in managing local fisheries. Countries' systems are growing eclectically on the side of customary local tenure, depending on resources (Rohe et al., 2019).

"In type 2 (competition), the relationships between government systems are firm, but the operations and implementations are entirely different" (Rohe et al., 2019). The patterns can be seen in the management of the coast on Fiji Island. For instance, to strengthen legal protection and enforcement, a community may legally establish a managed area where the property owners must give up their rights as usual users. Despite the pattern's strong relationships between governments, those governments' behavior is in opposition.

"In accommodation, legal pattern type 3, national and customary governments have reciprocally adapted to each other with little integration in constitutions or jurisdiction"(Rohe et al., 2019). The national government of Solomon allows communities to register local management plans as a step toward the state's adoption of national legislation to support and systematize customary practices. As a result, localities would have to adjust to specified national standards.

Type 4: Mutual Support describes a collaboration between the two governments. Both the Solomon Islands and Fiji had this kind of trend. Fiji's customary tenure system was organized despite having a centralized governmental system. For instance, it is evident that the functions of customary leaders in the fishing permit system (Rohe et al., 2019). To enforce local and national fisheries regulations, Solomon Islands is establishing a new group of local fish wardens. Communication and collaboration between the customary and government systems (provincial and national) seem to function well. Similarly, research by Rohe et al. (2019) suggests a desire for increased cooperation between customary tenures and governments in the Solomon Islands.

These examples, particularly from Fiji and the Solomon Islands, highlight the potential of decentralization in natural resource management, especially for coastal fisheries. From a legal pluralism perspective, these cases demonstrate strong and successful interactions between national and customary governments, reflecting the strengths of the "Type 4 (mutual support legal pattern)". A study of natural resource management across two islands and Myanmar fisheries communities reveals both the advantages and disadvantages of legal pluralism. Additionally, research by Rohe et al. (2019) suggests that the social and political history of a country plays a significant role in how effective legal pluralism and decentralization are within its natural resource management system.

## **Conclusions**

The paper examines the potential benefits of decentralization as a solution for achieving sustainable marine fisheries management. The analysis revealed that the centralized management approach led to a struggle to address limited local knowledge, stakeholder participation, and enforcing regulations.

The research suggests that decentralization by empowering local communities and fostering a sense of ownership can lead to improved management practices. Increased participation allows for regulations tailored to specific ecological and social conditions. Additionally, local communities often possess invaluable knowledge about the fishery, leading to more effective management strategies.

However, successful decentralization requires careful planning and support. To promote effective decentralization, the following strategies need to be improved and adopted.

Creating successful community-based management systems requires more than just transferring authority. Local communities often lack the legal and technical support needed for effective co-management and may struggle with downward accountability to their members (Béné et al., 2009).

Outdated or insufficient regulatory frameworks can impede decentralization efforts. Developing legal frameworks that clearly define the roles and responsibilities of local authorities and communities in fisheries management.

Implementing mechanisms to ensure equitable participation and prevent elite capture within decentralized systems.

Encouraging collaboration between local communities and government agencies to ensure knowledge sharing and effective policy implementation.

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# DIASPORIC IDENTITY AND INTEGRATION IN TRANSNATIONAL THAI MARRIAGES

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## Abstract

This research paper is part of a master's thesis titled 'DIASPORIC IDENTITY AND INTEGRATION IN TRANSNATIONAL THAI MARRIAGES'. It looks at the diasporic identity, integration, and social, economic, and political dimensions of transnational Thai marriages in the context of Thailand. So far, a lot of research has looked at this using lifestyle or retirement migration as a framework since Thai local and national governments have promoted this as an economic development strategy. This paper aims to help us understand more about this type of migration's social and economic implications by looking specifically at transnational Thai marriages. We aim to gain insight into their social activities or processes that form their diasporic identity. We also aim to determine the level of integration into the host society to see if they prefer to remain in their communities or not. Finally, an analysis of Thai immigration policies and a look into the legal status of these migrants will help us to see what effect this has on their identity, integration, and general migration trajectory. This area of study is a significant contribution to the field of development studies since this is an ever-emerging and evolving phenomenon in Thailand. It will lead to increased diversity amongst the host society, and we, as development practitioners and scholars, will need to be better informed of its implications.

**Keywords:** Transnational marriage, Thailand, diaspora, identity, integration, migration, marriage, culture

## Introduction

From the existing body of literature on transnational marriage families and their diasporic identities, we know a lot about the origins of the Thai women who engage in transnational marriage and migrate abroad. Several studies have examined this type of migration, where foreign spouses in Thailand have their lives transformed in specific ways (Thompson et al., 2016). We still need to look at this topic more from the foreign spouse's side in Thailand. Past studies have looked more at the economic implications but less so at the social implications, particularly the level of integration and how this contributes to the diversity of Thai society. However, this level of integration may be determined mainly by Thai immigration

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policies and the subsequent legal status of the diaspora. Since all these factors combine to determine the level of integration, we can see this analysis's importance within the wider field of development studies. A broader and more in-depth understanding of this issue is of particular importance to the general body of knowledge and the future of the host society. The research objectives are as follows:

1. To investigate the social practices of foreign spouses in transnational Thai marriages and how they shape their diasporic identity.
2. To determine the extent to which foreign spouses of transnational Thai marriages integrate into the host society.
3. To identify the social, economic, and political dimensions of transnational Thai marriages in the context of Thailand and its implications on the host society.

## **Conceptual Framework**

### Diasporic Identity

The International Organization for Migration defines diaspora as migrants or descendants of migrants who have shaped their identity by their migration experience and background. Due to their shared history, identity, or experiences in the destination country, the diaspora continues to link with their place of origin and community (IOM, 2019, p. 49). Cohen (1997) describes diasporic identities as being shaped in different spaces, which are interconnected, sometimes distinct and competing. Each of these spaces is different and attached to a shared sense of belonging and shared memory of uprooting. These concepts appear to link with transnationalism, which is core to this research paper. These concepts of diaspora and transnationalism will need to be analyzed in depth.

### Gender Issues in Marriage and Migration

The concepts of gender, marriage and migration appear to be interconnected. Palriwala and Uberoi (2008) explored the links between gender issues in marriage and migration. The authors highlight how migration may encourage the rescripting of gender roles within the family. They also mention that migration is crucial in maintaining the economic competitiveness of receiving countries. This is a key concept within the scope of this research paper, as migration has become a highly gendered process throughout the world.

### Intersectionality

Intersectionality, as defined by Smooth (2013), is the idea that social identity categories, i.e., race, gender, class, sexuality, and ability, are interconnected and operate simultaneously to produce experiences of privilege and marginalization. This concept encourages us to recognize the differences among groups and to understand the interaction of various social identities and how they can define societal power hierarchies. This concept is considerably

helpful for this research project as it looks at how intersectionality can produce an experience of privilege and marginalization.

### Transnational Marriage

A transnational marriage can be defined as one engaged in by two adults, after consent, who are not from the same nation-state (Ishii, 2016). While there are two people involved here, this research paper will focus mainly on the individual foreign spouse who is married to a Thai and based in Thailand.

### Transnationalism

We will define ‘transnationalism’ as the inherently un-bordered social practices in the world and their situatedness among the structures that have governing power over those practices (Kasun, 2017). Princes (2022) defined transnationalism more simply as referring to social relations that go beyond the borders of a nation-state. Schiller et al. (1995) talk about how immigrants are transmigrants who become firmly rooted in their new country but maintain multiple linkages to their homeland. They discuss that it is possible to be part of a nation beyond the boundaries of your state. They also mention that establishing businesses and voluntary organizations helps maintain links of transnationalism and that transmigrant organizing can create a potent political force. This force has significantly impacted the empowerment of migrants by renaming them and recognizing the political power they can potentially have. This concept is crucial in understanding this type of migration.

Figure 1 - Conceptual Framework

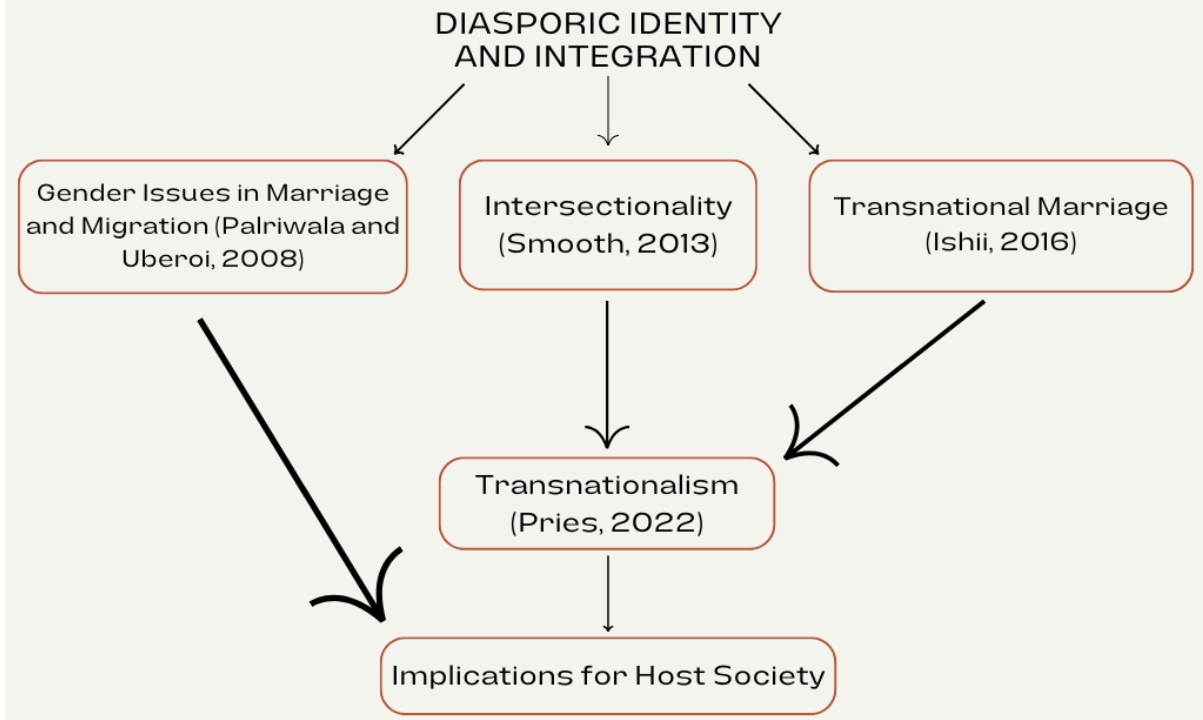


Figure 1 – Conceptual Framework.

In Figure 1, we can see a conceptual framework of the potential relationship between the concepts and how they link with one another throughout the conceptualization of the topics within this paper. We start with the overarching theme of diasporic identity and integration, which will be significantly influenced by the following concepts: gender issues, intersectionality, and the formation of transnational marriage that can shape this identity. Once these have been investigated, the paper will look at the implications these factors have on the host society.

## Methodology

### Data Collection

The primary data collection method was conducted using semi-structured interviews in May and June 2024. These were held individually, in-person and online, with Thai citizens' foreign spouses (husbands and some wives). All the respondents were based here in Thailand and had been here for many years. A total of 10 interviews were held, each lasting from around 45 minutes to 1 hour. The respondents came from the Netherlands, USA, UK, Canada, and Korea. They also came from different occupations: teachers, consultants, marketing directors, translators, and some retired.

The method of semi-structured interviews was chosen so that the sessions would have some structure and the respondents would feel at liberty to discuss other topics that would arise. According to Jamshed (2014), semi-structured interviews are those in-depth interviews where the respondents are invited to answer preset open-ended questions. The interviews were recorded with a voice recorder or in a Zoom conference call, with the respondent's consent. They were also informed that their information would be shared in my paper but under an anonymous name. Additionally, they were informed that they had the right to withdraw from the study without giving a reason and that they could delete any parts of the recording if necessary. The researcher's supervisor, friends of friends, and former colleagues gained access to the respondents.

The interview questions were organized by themes relating to the research questions and objectives of the paper. For example, the first set of questions relating to social practices was "What activities do you do in your free time?" or "What communities or groups are you a part of?". The second set was questions such as "How often do you interact with Thais, and what kind of interactions do you make?". Finally, for the third set, there were questions such as "What was the visa process like when you moved here?" or "How would you go about finding a job or starting a business here?". This question hopefully provides some idea as to what was asked in the interviews; however, as mentioned before, the sessions were semi-structured and new questions and discussions usually came up. It is also important to note that all data collection was conducted under Thailand's Personal Data Protection Act (PDPA) framework, which came into full force on 1 June 2022 (DLA Piper, 2024). At no point will the audio recordings be shared publicly; only the notes and highlights taken from them in text form are shared in this paper.

| Identifier | Age    | Gender | Nationality | Visa Type                     | Occupation                | Have Children (y/n)   | Location      | Years Married | How they met Spouse     | Thai Language Skills |
|------------|--------|--------|-------------|-------------------------------|---------------------------|---|---------------|---------------|-------------------------|----------------------|
| Mr. A      | In 40s | Male   | Dutch       | Work Visa, non - B            | Head English Teacher      | Y – 1 Son   | Bangkok       | 20 years      | In a cafe               | Can speak Thai       |
| Mr. B      | In 40s | Male   | Dutch       | Father of Thai child/marriage | Part-Time Thai Teacher    | Y – 1 Daughter  | Rayong        | 10 Years      | High Five – Met Online  | Can Speak Thai       |
| Mr. C      | In 70s | Male   | American    | Thai Privilege Visa           | Retired                   | Y – 2 sons  | Pathum Thani  | 26 years      | Met in Istanbul, Turkey | Speaks some Thai     |
| Mr. D      | In 60s | Male   | American    | Work Visa, non-B              | Manager at Amusement Park | N – but has a step-daughter   | Nakhon Pathom | 2 years       | Met at a temple         | Can Speak Thai       |
| Mr. E      | In 70s | Male   | Canadian    | Marriage                      | Retired                   | N – but a total of 3 daughters from a previous marriage of both spouses | Petchaburi    | 29 years      | Met in a Salon          | Can Speak Thai       |



|               |        |        |         |                  |                    |                          |             |               |                                 |                      |
|---------------|--------|--------|---------|------------------|--------------------|--------------------------|-------------|---------------|---------------------------------|----------------------|
| <b>Mr. F</b>  | In 30s | Male   | British | Work Visa, non-B | Marketing Director | Y – 1 Baby Son           | Bangkok     | 3 years       | Met online                      | Can Speak Basic Thai |
| <b>Mrs. G</b> | In 60s | Female | Korean  | Marriage         | Full-time Mum      | Y – 1 son and 1 daughter | Bangkok     | Over 40 years | Met in Korea                    | Can't speak Thai     |
| <b>Mr. H</b>  | In 60s | Male   | British | Marriage         | Retired            | Y – 2 sons               | Phuket      | 35 years      | Met in Oman                     | Can Speak Thai       |
| <b>Mrs. I</b> | In 70s | Female | British | Marriage         | Retired            | Y – 3 children           | Phrapadaeng | 48 years      | Met in Thai Embassy, in Germany | Can Speak Thai       |
| <b>Mr. J</b>  | In 60s | Male   | British | Retirement       | Retired            | Y – 1 daughter           | Bangkok     | 42 years      | Met at University, UK           | Can Speak Thai       |

Figure 2 – Table of Respondent Details.

## Data Analysis

Once data collection had been completed, it was processed through the following steps: The first step was organizing the notes, and the second step was transcribing the interviews. The third step was reading, annotating, conceptualizing, segmenting, and analyzing the transcripts. From this, individual stories and highlights could be found, which helped answer the research questions and achieve the objectives of this paper. Hopefully, this result helps deliver stories based on different concepts or findings to the reader. These findings and insights have enabled the researcher to build upon and verify theories and answer the key questions set out from the beginning.

## Findings and Discussion

| <b>Themes</b>               | <b>Mentioned by and Number of Respondents (out of 10)</b> |
|-----------------------------|---|
| Cultural Awareness          | Mr. B, Mr. C, Mrs. G, Mr. H, Mr. J. (5)                   |
| Importance of Language      | Mr. A, Mr. B, Mr. C, Mr. F, Mrs. G, Mr. H (6)             |
| Connecting with the in-laws | Mr. A, Mr. F, Mrs. I, Mr. J (4)                           |
| Raising Children            | Mr. B, Mr. D, Mr. F, Mrs. I (4)                           |

Figure 3 – Four Main Themes from Findings.

In Figure 3 above, we have identified four main themes mentioned in the interviews with the respondents. These are cultural awareness, the importance of language, connecting with the in-laws, and raising children. It was found that they were the most common topics of discussion within the interviews and will be used to achieve the research objectives set out in this paper. From this, we can look at the social activities, the extent to which they integrate, and finally, the multiple dimensions of this transnational marriage.

### *Cultural Awareness*

Five respondents emphasized the importance of cultural awareness when engaging in a transnational Thai marriage and, or when living and working here. This ties in well with the research objective of setting out to determine the extent to which they integrate into the host society. The respondent, referred to as Mr. C, mentioned that cultural awareness is essential for foreigners in Thailand as he draws on the experience of working in many different countries around the world as an international consultant. Mr. J also mentioned that he has embraced Thai culture and has had to accept and adapt to cultural differences, especially in the workplace. These findings demonstrate that foreign spouses engaged in transnational Thai marriages are willing to compromise a lot to adapt to Thai culture. This ultimately shows a high level of, or attempt at, integration into the host (Thai) society.

### *Importance of Language*

Six of the respondents brought up the importance of knowing the Thai language in communicating and helping to bridge cultural gaps. This links back to the research objectives of the social dimensions of their transnational Thai marriage and their level of integration. Mr. B said that it is much easier to communicate with locals in Thai, as there is better communication. He said it helps to close the cultural gap because the language barrier can contribute to his being perceived as an alien. He also said that it is common for foreigners not to learn Thai and may face problems. Most of the respondents in the study could speak Thai or at least attempted to do so. There is a consensus that it will make life much easier in Thailand and prevent the likelihood of any miscommunication.

### *Connecting with the in-laws*

Four of the respondents were happy to talk about their parents-in-law and how this shaped their transnational experience. This is relevant to the research objectives of social practices and perhaps even the more political dimensions of this transnational marriage. The experience between the respondents showed some contrast. Mr. A mentioned that he thinks his in-laws are fantastic, appreciate their values, and is glad that they do not interfere too much. However, Mrs. I mentioned that she faced challenges with family dynamics, with her father-in-law having a strong influence in the household. She found ways to compromise but had to assert her opinions when necessary. She mentioned that she could use the label of having a 'farang' mindset, which helped them accept her opinion and prevented her from explaining herself. This was an interesting point of discussion in the study and was discussed numerous times. It is vital in marriage overall to understand that you are also marrying into a family. However, this can become particularly complicated when you are also now marrying into a transnational family.

### *Raising Children*

Four of the respondents talked about how they would like to raise their children, which was particularly important to the respondents with newly born children. This talk helped the researcher to look at the extent to which the transnational family, as a unit of analysis, will integrate into the host (Thai) society. Both Mr. B and Mr. F mentioned that they would not like their children to study at an international school as they believe that it creates either a false identity or that it feels like an artificial bubble. This fact was an essential point as it showed the degree to which the parents in this transnational marriage will plan and consider the future of their children. Since raising children is already inherently complicated, this area can become incredibly challenging as there is more than one culture or nationality to consider. The practice of raising and teaching children can also be significantly different between cultures, so it can also be a source of conflict if not managed carefully.

### **Conclusion and Recommendations**

The diasporic identity and integration in transnational Thai marriages have provided us with a valuable framework to look at the importance of this phenomenon within the broader realms of social and economic development in Thailand. The social practices, level of integration, and multiple dimensions involved in this transnational marriage can now be understood better in the way it contributes to Thai society's diversity and the country's long-term socioeconomic development. Our findings have shown the importance of the four key themes of cultural awareness: language, connecting with in-laws, and raising children. These experiences varied among the respondents who participated in this study; however, cultural awareness and language have the most significant and common role when being in a transnational Thai marriage and living in Thailand. If we were to make recommendations to policymakers based on these findings, we would recommend that more serious action be taken to raise the importance of cultural awareness for foreigners in Thailand. We also recommend that language courses or free education should be given to those engaged in transnational Thai marriages to improve communication and integration. Finally, it is essential to consider future paths of naturalization for foreign spouses who strongly identify as Thai. Particular attention should be given to this area because, in the future, this phenomenon will continue to evolve and will be in constant need of even greater understanding.

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**CHAMPIONS OF RIGHTS:  
CIVIL SOCIETY'S ROLE IN CAMPAIGNING AND ADVOCATING FOR  
RATIFICATION OF THE CMW FROM A KOREAN PERSPECTIVE**

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**Abstract**

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW,1990) aims to protect the human rights of migrant workers and their families. As a major destination for migrant workers, South Korea faces challenges, including the exclusion of irregular workers, limits on workplace changes, family reunification issues, and hazardous working conditions under the Employment Permit System (EPS). This study examines the role of civil society organizations (CSOs) in advocating for the ratification of the CMW in South Korea. Through interviews with CSOs, advocacy groups, and migration scholars, the research identifies key obstacles and evaluates advocacy strategies. The findings reveal that major barriers are a lack of political will, legal complexities, economic considerations, and limited public awareness. CSOs use public awareness campaigns, legal assistance, research, and collaborations to promote migrant rights. The study emphasizes the importance of strengthening alliances, public awareness, and media engagement. Recommendations include focusing on policy advocacy, legal reform, capacity building, and international collaboration to influence policy decisions and promote migrant worker rights in South Korea.

**Keywords:** Civil Society Organizations (CSOs), Employment Permit System (EPS), CMW, Migrant Workers, South Korea.

**Introduction**

This study aims to understand and analyze the status of the 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW, 1990) ratification process in South Korea, with a focus on the civil society organization context. CMW was adopted over 34 years ago by the United Nations General Assembly in the 1990s.

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The Office of the UN High Commissioner for Human Rights presents it as one of the 'core international human rights treaties. 'CMW serves as a crucial framework for upholding the rights and dignity of migrant workers globally.

By ratifying the convention, a government publicly commits itself to adhering to internationally agreed-upon standards regarding the treatment of migrants. It works as a tangible demonstration of a government's dedication, both legally and symbolically, to upholding the rights of migrant workers and their families within its jurisdiction. Despite CMW's profound significance, its ratification remains limited, with only fifty-nine countries having ratified the convention as of September 2023. Several factors contribute to this low ratification rate, including insufficient campaigning and awareness, limited engagement from individuals and organizations promoting the convention (Taran, 2000), legal complexities (Helton, 1991), and the national interests of destination countries (Ruhs, 2013).

Since its implementation in 2003, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (n.d.) has seen increased engagement from international human rights organizations, humanitarian groups, and civil society advocates promoting migrants' rights. Organizations such as Amnesty International, Human Rights Watch (HRW), and various other entities have been actively involved (Grange & d'Auchamp, 2009). Efforts to ratify the Convention have increased both nationally and regionally. Although many laborer-sending countries have ratified it, receiving nations, especially Western Europe and the Gulf States, have been more cautious. Advocacy from various regions has effectively pressured governments to consider ratification. Significant campaigns are underway in several European countries, and civil society groups worldwide, including in Asia, Latin America, and the Middle East, continue to support migrants' rights (Grange & d'Auchamp, 2009).

South Korea, a significant destination for Asian migrant workers, illustrates numerous challenges. As of January 2024, South Korea hosts approximately 923,000 regular migrant workers (Park, 2024) and 398,000 irregular migrant workers (Stokes, 2021). Korea's low-skilled migrant worker policy, the Employment Permit System (EPS), was implemented in August 2004 as a landmark move to recognize migrant workers' rights legally, equating them with national workers in terms of labor rights, pay, and benefits (Amnesty International, 2009). However, this system has not been without problems, including security issues emerging from unintegrated migrant populations and challenges within the host migrant policy (Kim & Song, 2023).

The EPS excludes irregular workers and more than 20,000 undocumented children (Reuters, 2020), raising questions about the legitimacy of workplace change limits and related regulations (Amnesty International, 2009). Persistent problems such as labor exploitation and industrial accidents continue to plague the system. For instance, since 2015, there have been 522 deaths among Thai migrant workers, primarily undocumented, underscoring the critical need for improved migrant protection. The vast majority were undocumented, with approximately 40 percent dying of unknown causes; the other 60 percent died from health issues, accidents, or

suicide (Reuters, 2020).

Meanwhile, South Korea's population has been declining, with a slight decrease of 20,838 (0.04 percent) since 2019, leading to greater employer demand for migrant workers (Reuters, 2020). However, issues such as dependency on employers, the exclusion of irregular workers, unintegrated migrant populations, and workplace exploitation persist (Kim & Song, 2023). Despite South Korea's ratification of almost all core international human rights treaties, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) remains unratified. This convention serves as a crucial framework for upholding the rights and dignity of migrant workers, including undocumented workers, globally, underscoring the need for civil society advocacy.

The primary aim of this study is to explore the role of civil society organizations (CSOs) in advocating for the ratification of the CMW in South Korea. It seeks to address the central question: "To what extent do CSOs effectively advocate and campaign for the ratification of the CMW in South Korea?" The study aims to identify critical obstacles to ratification, examine the strategies and initiatives employed by CSOs, and explore how these organizations can contribute to promoting migrant rights and advocating for CMW ratification. This contribution will be achieved through in-depth interviews with CSOs, advocacy groups, human rights activists, and migration scholars.

This study enhances understanding of the barriers to CMW ratification in South Korea, identifying key political, legal, and social challenges. It analyzes the advocacy strategies of civil society organizations (CSOs), offering valuable insights for similar efforts globally. By evaluating South Korea's current legal framework, the study highlights critical gaps affecting migrant workers. It assesses the potential impact of CMW ratification on migrant workers' legal and social status and provides practical policy recommendations. Additionally, it raises awareness about the importance of CMW ratification, advocating for improved protections and treatment of migrant workers in South Korea.

However, the study faces limitations and challenges, primarily due to the absence of input from key stakeholders such as policymakers, resulting in a limited understanding of official responses.

### **Conceptual Framework**

This framework examines key international conventions related to migrant rights, including the CMW. It traces the historical development of civil society in South Korea, highlighting its growth, challenges, and advocacy for social justice, particularly migrant rights. The framework reviews existing research on how CSOs in South Korea have influenced policy, public discourse, and perceptions of migrant workers, providing insights into their efforts and

challenges in promoting migrant rights and advocating for the ratification of international standards.

#### *International Framework.*

Three main international instruments address migrant workers' rights (Ruhs, 2013). ILO Convention No. 97 (1949) ensures fair treatment and equal opportunities. ILO Convention No. 143 (1975) addresses abusive conditions, promoting equality and non-discrimination. The UN's CMW (1990) provides a comprehensive framework for migrant workers' rights, including civil, political, economic, social, and cultural rights, emphasizing equal treatment and family unity. Unlike the earlier conventions, the CMW's 93 articles extend protections to all migrant workers, regardless of their legal status, and recognize additional rights for regular migrants and their families. As of 2023, 59 countries have ratified the CMW.

#### *Civil Society in South Korea.*

Civil society in South Korea has evolved significantly from its origins in the 20th century to its present state, marked by dynamic growth, formidable challenges, and substantial advocacy for social justice. Emerging during the Japanese colonial period (1910- 1945), civil society gained momentum through the democratization movements of the late 20th century, particularly the labor and student movements of the 1970s and 1980s, which mobilized against authoritarian regimes and contributed to South Korea's democratization in 1987. Post- democratization, civil society expanded notably in the 1990s with the emergence of numerous NGOs addressing diverse issues such as human rights, environmental conservation, and gender equality.

Despite its expansion, civil society in South Korea encounters challenges, including government resistance, internal divisions, and the need for broader societal engagement (Park, 2002; Lim, 2003). The Migrant Workers' Support Movement (MWSM) exemplifies this growth, advocating against exploitative working conditions in response to increasing migrant labor demands in SMEs. For instance, the MWSM pressured the government to implement the Employment Permit System (EPS), an improvement over previous systems like the exploitative Industrial Trainee System (ITS) (Yi, 2002; Kwôn, 2003). These efforts have resulted in legal concessions and increased protections for migrant workers, although challenges persist in fully realizing these rights (Kim, 2004; Korea Herald, 2003).

#### *Civil society's role in policy advocacy focuses on migrant rights issues in Korea.*

Civil society organizations (CSOs) in South Korea have significantly influenced migrant rights through policy advocacy. One notable moment was the Myongdong Cathedral struggle in January 1995, where Nepalese "trainees" staged a sit-in protest, highlighting their plight and linking it to broader movements for democracy and human rights (Joint Committee for Migrant Workers Korea, 2001; Korea Times, 2004a). NGOs like the Foreign Workers Labor Counseling Office (FWLCO) and the Labor Human Rights Center (LHRC) were vital in advocating migrant



workers' rights. They campaigned against harsh conditions under the Industrial Technical Trainee Program (ITTP) and promoted more inclusive migrant integration programs (Kim, 2018).

Despite government and employer resistance, these NGOs influenced human rights norms in South Korea. Unlike self-interested bodies like the Korea Federation of Small Business (KFSB), NGOs like FWLCO and LHRC championed inclusive policies for social justice (Benford & Snow, 2000). Media coverage portrayed NGO activities positively, enhancing their public standing (Benford & Snow, 2000). Sociologist Dong-hoon Seol highlighted NGOs' essential role in advocating for marginalized groups during public demonstrations (Seol, 2003, as cited in Kim, 2018). However, South Korea has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) despite ratifying nearly eight out of nine core international human rights treaties. Challenges remain, such as the delayed ratification of treaties like the CMW (Lee, 2015). This study aims to identify obstacles to ratification, examine effective CSO strategies, and explore how these organizations can promote migrant rights and advocate for CMW ratification.

## **Methodology**

The research followed a qualitative method based on both primary and secondary data. Primary data was gathered through interviews to comprehensively investigate civil society's role in campaigning and advocating for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) from a Korean perspective. Approximately 10 interviewees from NGO workers, advocacy groups, human rights activists and migration scholars were identified for the study.

Currently, I have sent out questionnaires to all interviewees and am in the process of arranging interview schedules. Five interviews have already been completed, with the remaining interviews scheduled to follow shortly. Purposive sampling was used to select key informants from civil society organizations, advocacy groups, migration scholars, and relevant stakeholders involved in migrant rights advocacy in South Korea.

The study conducted a comprehensive review of existing literature, reports, and documents from multiple sources, including qualitative interviews, to provide a nuanced understanding of the research phenomenon. In-depth interviews (open-ended) were conducted with key informants using semi-structured interview guides. Interviews were audio-recorded and transcribed for analysis. Thematic analysis was employed to identify recurring themes, patterns, and insights from the interview transcripts. Data coding and categorization were conducted iteratively to derive meaningful interpretations.

## Research Findings and Analysis

### A. The main obstacles to the ratification of the CMW in South Korea

The analysis of interviews and existing literature reveals a complex landscape regarding the advocacy and ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families (CMW) in South Korea. Key challenges faced by civil society organizations (CSOs) include:

*Political Will and Policy Priorities.* A significant barrier is the lack of political will, as politicians prioritize immediate national interests over long-term human rights goals due to fears of backlash and difficulties in aligning domestic policies with international standards (U1, U2, U3, U4, U5). This caution reflects concerns about disrupting economic and political stability (Piper & Iredale, 2003).

*Legal Complexities and Constitutional Concerns.* Legal complexities also impede ratification. Compared to Japan, South Korea has yet to fully explore the legal implications of the CMW. The Ministry of Foreign Affairs has identified potential conflicts between the CMW and the South Korean Constitution, highlighting tensions between human rights and state sovereignty (U1-5; Piper & Iredale, 2003).

*Economic and National Interests.* Economic considerations play a crucial role. Interviewees expressed concerns about the impact of ratification on the domestic labor market and economic stability, mirroring research by Yamanaka and Piper (2006), which favors temporary migration schemes over comprehensive rights for migrant workers (personal communication, 23 May 2023).

*Public Awareness and Media Influence.* Limited public awareness and negative media portrayals of migrant workers hinder advocacy efforts (personal communication, 25 June 2023). The lack of public pressure on policymakers underscores the need for greater education and media engagement.

*Security and Societal Integration.* Fears of increased immigration pressures and societal resistance also influence policy decisions. Policymakers worry that ratification could exacerbate security issues and cultural resistance (U1-5).

*Sovereignty and Geopolitical Factors.* Geopolitical and sovereignty concerns complicate the ratification process. Unlike some Western countries, the South Korean government is cautious about the regional impacts and has not proactively pursued international human rights instruments (U4; Piper, 2003; Ruhs, 2013).

*Impact of Budget Cuts on Civil Society*

Recent budget cuts, including closing foreign worker support centers, have strained CSOs. These closures reduce resources and outreach, increasing the vulnerability of migrant communities and hindering advocacy efforts (The Hankyoreh, 2023; U3). In summary, the interplay of political, legal, economic, and social factors presents significant obstacles to the ratification of the CMW in South Korea.

## **B. Initiatives Undertaken by CSOs**

Civil Society Organizations (CSOs) in South Korea are crucial in advocating for ratifying the International Convention on the Rights of All Migrant Workers and Members of Their Families (CMW). Their initiatives include:

*Public Awareness Campaigns and Legal Assistance.* CSOs run public awareness campaigns and provide legal aid to migrant workers, which is crucial for educating the public and policymakers (The Hankyoreh, 2023). Historical examples, such as the efforts of the Foreign Workers Labor Counseling Office (FWLCO) and the Labor Human Rights Center (LHRC), show that while these initiatives have mobilized support effectively in the past (personal communication, 15 May 2023), they face challenges due to limited media coverage and public indifference, along with insufficient legal frameworks for translating advocacy into policy changes.

*Research and Publications.* CSOs conduct research and publish findings to support their advocacy (personal communication, 4 July 2023), drawing on historical practices of using data to influence policy (Kim, 2018). However, the impact of this research can be limited by the prevailing political and economic climate, as policymakers may disregard findings that conflict with national interests.

*Community Support Programs.* Programs providing legal aid, housing support, and language training are vital for assisting migrant workers (personal communication, 3 May 2023). These initiatives build on past successes from the democratization era (Yi, 2002; Kwôn, 2003), but their effectiveness is constrained by financial limitations and recent budget cuts, which have led to the closure of key support centers (The Hankyoreh, 2023).

*Collaboration and Partnerships.* CSOs collaborate with domestic and international organizations, government agencies, and academic institutions to enhance advocacy efforts (personal communication, 6 June 2023). Historical alliances, such as those by FWLCO and LHRC, have been effective, yet collaboration can be hindered by conflicting interests and government resistance, diluting the impact of these partnerships (Kim, 2018).

*Historical Context and Achievements*

CSOs have a strong history of advocating for migrant rights, exemplified by the Employment Permit System (EPS) (Yi, 2002; Kwôn, 2003). Despite these achievements, ongoing barriers and the evolving socio-political landscape necessitate continuous adaptation and innovation from CSOs. In summary, while South Korean CSOs have made significant contributions through various initiatives, political, economic, and institutional challenges often limit their efforts. A strategic and adaptive approach is needed to overcome these barriers and advance migrant rights advocacy.

### **B. How Can Civil Society Organizations Effectively Advocate for Migrant Workers' Rights in South Korea**

Policy advocacy and legal reform are widely recognized as crucial contributions of civil society organizations (CSOs), as these efforts aim to influence legislative changes and safeguard migrant workers' rights (U3). Capacity building and public awareness campaigns also play a significant role by educating the public and empowering migrant workers, thus enhancing advocacy efforts (personal communication, 2 July 2023).

The effectiveness of these initiatives is often measured through policy changes, media coverage, and the responsiveness of government entities. Successful advocacy is reflected in legislative reforms and increased resources (personal communication, 4 June 2023). Strategies such as alliances and partnerships, effective media use, and engagement with policymakers are identified as critical to achieving successful outcomes (personal communication, 5 June 2023).

However, challenges such as public awareness and political opposition remain significant. Overcoming these barriers requires targeted education and persistent advocacy efforts (personal communication, 4 July 2023). The availability of financial and legal resources—including legal expertise and media support—is essential for amplifying advocacy capabilities (personal communication, 5 July 2023).

International collaboration is deemed crucial for advancing migrant rights and advocating for the ratification of the CMW, as such support helps to enhance advocacy efforts and facilitate progress (personal communication, 5 June 2023). Finally, research and education from academic institutions provide valuable support to CSOs by offering insights and technical expertise and fostering informed dialogue on migrant issues (personal communication, 5 June 2023).

## **Discussion and Conclusion**

This study highlights the crucial role of civil society organizations (CSOs) in advocating for the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families (CMW) in South Korea. Through literature review, document analysis, and interviews, it is evident that CSOs significantly contribute to promoting migrant rights and influencing policy reforms. Their work includes public awareness campaigns, legal assistance, and community support, reflecting a comprehensive approach to addressing migrant issues.

Challenges to ratification include a need for more political will, legal complexities, economic concerns, and limited public awareness. Despite these hurdles, CSOs use diverse strategies, such as collaborations with international bodies and government agencies, to advance their advocacy efforts. Historical successes, such as those related to the Employment Permit System (EPS), demonstrate the impact of civil society on legislative change.

Future research should investigate the effectiveness of different advocacy strategies employed by CSOs and examine policymakers' views on barriers to CMW ratification. Such studies could provide valuable insights into overcoming challenges and advancing migrant workers' rights in South Korea.

In total, while CSOs face significant obstacles, their resilience and strategic efforts are key to driving progress. By enhancing public awareness and strengthening collaborations, CSOs can play a transformative role in shaping fairer migration policies and ensuring better protection for migrant workers.

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# **REHABILITATING AND REINTEGRATING THE SURVIVORS OF DOMESTIC VIOLENCE TO SOCIETY: A CASE STUDY AT FOKUPERS TO ADDRESSING THE ISSUE IN TIMOR-LESTE.**

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## **Abstract**

This research project focuses on rehabilitation and counseling, with a case study at FOKUPERS. This study aims to address these critical gaps by examining the specific rehabilitation and reintegration strategies employed by FOKUPERS in response to domestic violence, considering the societal stereotypes and organizational challenges that affect them. Bridging these knowledge gaps is crucial for advancing scholarly understanding and informing policies and practices in domestic violence rehabilitation within the unique context of Timor-Leste. Domestic violence remains a pervasive global challenge that extends across socio-cultural and geographical boundaries. This issue takes on unique complexities in Timor-Leste, a nation undergoing significant socio-economic development. Despite the dedicated efforts of organizations like FOKUPERS to combat domestic violence, there exists a critical gap in understanding the effectiveness of their strategies and the broader societal challenges that hinder efficient assistance to survivors.

**Keywords:** Rehabilitating, Reintegrating, survivors, Domestic Violence, and FOKUPERS

## **Introduction**

In Timor-Leste, where it is still taboo to discuss domestic violence, women, despite the challenges, are bravely speaking up about their suffering from physical and mental abuse by their intimate partners. The patriarchal system in Timor-Leste, more decisive within the cultural system, is a significant barrier for women to overcome. However, civil society groups, as exemplified by Hall (2009, p. 317), are conducting advocacy programs through socialization and have been working on domestic violence in rural districts.

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In addition, 'gender issues are still considered strange news; half of them say that you bring this kind of issue from Western countries'. This literature represents taboo perspectives in Timor-Leste as one of the classic mindsets around societies.

The practice of patriarchal culture shows men's strength and power at home. The domination of the man in the family is a barrier for the women; women cannot decide for themselves, weak, silent and unspoken. They can only do domestic work and care for their children, which still strongly exists in Timor-Leste. "If you beat or slap a woman, it means teaching your wife to be a good wife, to obey your partner, and to discipline, which is physical violence against women."

Similarly, The Asia Foundation's research report identified, "In patriarchal societies, men have authority and control over women's lives. This power dynamic can lead to domestic violence, as some men may use violence to assert and maintain control over their partners" (Rana. et al., 2023).

FOKUPERS or *Forum Komunikasi Perempuan* was established in 1996 during the Indonesian occupation and is still known as FOKUPERS's Forum Komunikaun ba Feto Timor Lorosa'e. These organizations are struggling with gender-based violence and human rights violations against women and girls' rights. Today, FOKUPERS are focusing on the survivors of domestic violence; they are addressing these issues to provide rehabilitation, counseling, empowering, and reintegrating the survivors into their families. This NGO is involved in thirty base community women's groups in eight municipalities, which is to control, monitor, and advocate the issues of domestic violence in society. Although a non-profit organization, it has been operating for 27 years and has expanded its service delivery to include survivors' services, non-gender-based early childhood education, advocacy, and women's empowerment. Moreover, it incorporates the operation of shelters and creches, legal support, training and development, economic empowerment, and community awareness-raising.

Domestic violence is a pervasive global challenge that transcends socio-cultural and geographical boundaries. This issue takes on unique complexities in Timor-Leste, a nation undergoing significant socio-economic development. The societal norms and cultural practices in Timor-Leste, like the patriarchal system and the prevalence of taboos around discussing domestic violence, contribute to these complexities. Despite the dedicated efforts of organizations like FOKUPERS to combat domestic violence, there exists a critical gap in understanding the effectiveness of their strategies and the broader societal challenges that hinder efficient assistance to survivors.

Two distinct aspects contribute to these challenges. Firstly, the societal perspective about the stereotype that views domestic violence as taboo hampers open discourse about the issue. This societal stigma may prevent survivors from seeking help and hinder the development of effective interventions. Secondly, FOKUPERS faces the substantial challenges of aiding victims within the context of these entrenched gender norms and societal taboos. It is crucial to break this silence and encourage open discussions about domestic violence to provide adequate support to survivors.

## Methodology

This paper examines them using qualitative methodology, a case study approach from FOKUPERS Ngo, and secondary data analysis. It seeks to understand the aid that FOKUPERS provides to domestic violence survivors.

## Conceptual Framework

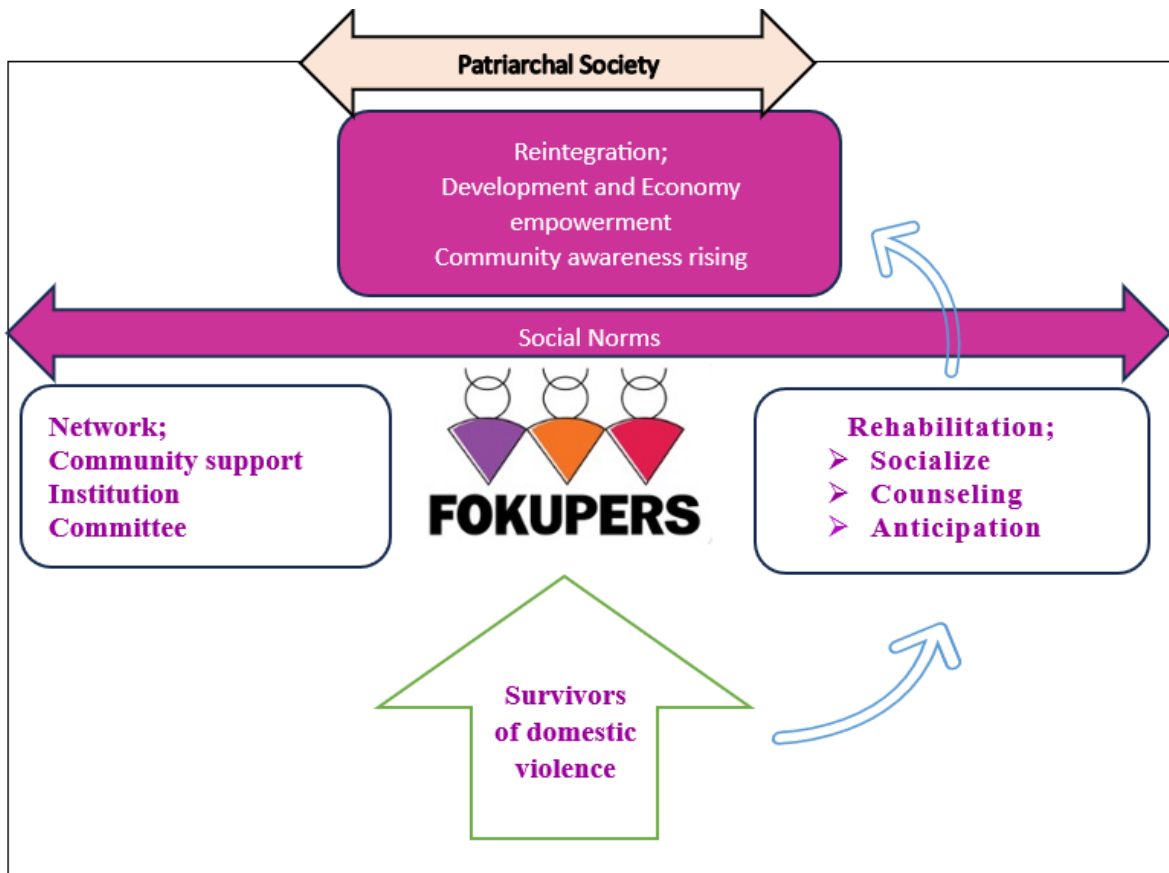


Figure 1: conceptual framework analysis

## Theoretical Framework

Regarding Hall (2009), "In the Congress platform for action, they demanded a law against domestic violence, and from this came the impetus for a national campaign in support of such a law (Gender Affairs Unit 2000)". After that, Hall (2009) wrote, "It was at this congress that the women of Timor transitioned from 'freedom fighters into... a women's movement". The potential implications of this study extend beyond academic discourse, aiming to convey a compelling message to society: the imperative to eradicate negative attitudes toward women survivors of domestic violence within familial contexts.

Stigmatization of Domestic Violence Survivors is directed to the social phenomenon where individuals who have experienced domestic violence face negative judgments, biases, or discriminatory attitudes from others due to their status as survivors of such violence. Stigmatization can manifest in various forms, including social exclusion, judgmental attitudes, or stereotyping, and it can have detrimental effects on survivors' well-being and their ability to seek help or support. Crowe et al. (2015), "*Sources and Components of Stigma Experienced by Survivors of Intimate Partner Violence*," who experience stigma and the stigmatization model of intimate partner violence, which may be affected by the process of recovery and the end of the abusive relationship. The content analysis of this literature aims to examine the model's applicability to qualitative data from the electronic survey.

The researchers have to understand the specific components of the stigma experienced by the survivors of Intimate partners, such as asking cynical questions, verbal and non-verbal discrimination, harassment, making the partners ashamed, and isolation; these types of discrimination and violence create stigmas that determined by the results of their research.

## **Findings**

The findings of this study are to rehabilitate and reintegrate the survivors of domestic violence into their families and society. The beginning of domestic violence started with gender-based violence, which Wild et al. (2023) report as "a comprehensive term that describes harmful acts directed at people based on whether they are a man or a woman. People understand the violence women and girls face in their daily lives, especially domestic violence." However, it also shows the cycle of domestic violence, which can help people understand how they might control themselves when they face this exact situation.

In a study, Niner (2012) contends that the "Barlake" System, also known as the Dowry System, is perceived in some societies as a transaction where women's rights are exchanged for marriage-related financial considerations. This custom also plays a role in elevating the status of women in Timor-Leste. However, the incidence of domestic violence is also associated with economic factors such as dowry payments or "Barlake," which can contribute to domestic violence within families.

Timor-Leste culture is still strong enough to require material and nonmaterial expenses for cultural events; spending money on cultural ceremony activities still applies. Two different costumes usually apply: we call them "lia mate" and "lia moris." It is a cultural ceremony about death and life, which means the family should spend their money on the family member's death ceremony or any relatives, neighbors, colleagues, or friends in the community.

Similarly, the so-called "lia Moris" also applied for the same expenses, especially during ceremonies like engagements, marriages, and other relevant cultural events on specific days within the community. Societies have become obliged to involve and continue to implement these cultural

activities as a part of their social life; indeed, spending money on these cultural activities can also have a negative impact, as this is one of the factors of poverty because all family members are obliged to support the materials and nonmaterial contributions during the cultural event. Thus, when the crisis has fallen in the family, the husband and wife see each other wrong and start fighting because they do not have the funds to live and support their family; from this, the case of domestic rape increases sharply per year.

One traditional mechanism called “Tara Bandu” is a conventional Timorese custom that enforces peace and reconciliation through the power of public agreement. Belum's Report (2013) said: "Given this, it could be that informal systems such as Tara Bandu can provide avenues to minimize the suffering of victims and contribute to long-term cultural change in reducing acceptance of such violence."

As a traditional custom that the government issues its value to everything, smugglings to the environment such as mountains and nature, cutting down trees and burning trees, there is also a ban on the sea not damaging marine biodiversity and a prohibition on culture, which makes people economically impoverished, also prohibits domestic violence which is later mentioned in Belun's report; “Concerns about the use of "Tara Bandu" concerning domestic violence, including that it places the victim and the perpetrator as equal parties who must pay sanctions to solve their "dispute," regardless of whom the aggressor has been” Belun (2013).

In this culture of "Tara Bandu," there is also a system to resolve domestic violence cases that are determined according to the village chief, and the "lia nain” cultural leader will solve the issues such as who is guilty and raping their wives will give sanctions to men this is according to the custom of the village and the man will pay his sin to the woman with goods or money and the problem is resolved. However, after that, the problem is still there because the man has money and animals to pay with a guarantee for his money that he will continue and can still make problems against women.

Besides customs resolving the issues of domestic violence, the FOKUPERS are working on rehabilitation and reintegration with the survivors of domestic violence. The first step that they do is to register the survivors who come to FOKUPERS; after the registration, they do a health examination at Psychosocial Recovery and Development in East Timor (PRADET). After the examination results, they will analyze and discuss them with a team of counselors, and then the process of rehabilitating starts. During the registration and health examination process, the survivors will stay at the FOKUPERS shelter for the whole process of beginning.

Rehabilitating the survivors of domestic violence is one of the programs by FOKUPERS to aid the survivors of domestic violence from their trauma and depression by their intimate partner or by their relatives. They provide counseling, therapy, training, and facilitating solutions and information.

The rehabilitation program implementation becomes one of the successful programs that cover the survivors and help them become more confident and do their own business after the rehabilitation by FOKUPERS. Johnstone et al. (2003) said that the "type of rehabilitation programming for patients ultimately hinges on the effectiveness and efficiency of improving patient outcomes." In FOKUPERS, their rehabilitation process is through mental and physical tests. FOKUPERS also called the referral network's name with the National Hospital Guido Valadares and health centers throughout the post. In health centers and posts, there is a room that is specific to attend to only victims of domestic violence—controlled by the FOKUPERS team as victim assistance. After all the consultation processes at the health center, the survivors were taken to the FOKUPERS shelter to continue the process of counseling, empowerment, and justice in court. However, victims often do not want to go to court.

From the rehabilitation process, FOKUPERS's referral network also, together with non-governmental organizations such as "Empresa Diak," good companies that collaborate with the team from FOKUPERS to provide economic empowerment to survivors, the reason is personal development and social development, which are the initial reasons for encouraging women to live independently in positive auto-independence. Women's empowerment can be defined in many ways. When discussing women's diversity, empowerment means accepting and allowing women to participate in decision-making. Strong emphasis must be placed on women's participation in political, economic, social, and cultural decision-making.

From the reintegration of survivors to their families, FOKUPERS is always accompanied by community police called "Polisia da Komunitaria" to ensure that the survivor returns home safely and is not threatened by society, neighbors, or relevant families. Sometimes, the survivors may be threatened by neighbors or family because they feel ashamed to receive the survivor back. After all, according to culture, she has humiliated her family in front of many people. After all, she has talked about his daily life in public.

The challenges that FOKUPERS face in providing aid to domestic violence survivors include social stigma: domestic violence may face resistance due to societal norms or stigmas associated with the issue. **Lack of Awareness:** Some survivors may be unaware of available services, hindering NGOs' ability to reach those in need. **Coordination with Authorities:** NGOs may face challenges in coordinating with law enforcement or other authorities to ensure the safety of survivors. Some authorities perceive domestic violence as a facet of marriage and a private matter that couples should resolve on their own. Consequently, they may not view it seriously or prioritize addressing the issue. **Cultural Sensitivity:** NGOs must navigate cultural nuances to provide adequate support that respects survivors' cultural backgrounds. **Data Collection and Reporting:** Gathering accurate data on the prevalence of domestic violence and the effectiveness of interventions can be challenging. **Empowering Survivors:** Encouraging survivors to rebuild their lives and become self-sufficient may face resistance, as survivors often need ongoing support.

## **Conclusion**

This paper concludes that the work of FOKUPERS to provide both counseling and financial support to the survivors of domestic violence in rehabilitation and reintegration to be healthy, happy, in harmony, out of traumatized, start a new life as an independent woman, and be mentally strong to fight against domestic violence. FOKUPERS reintegrate the survivors into the society where they live: freedom, confidence, decision-making, doing their own business and caring for the kids and family. However, with the help of victim assistants from FOKUPERS, they become humans that live again for their future and their children. Moreover, the economic empowerment they provide to the survivors is also countable to the survivors because they also provide funds to the survivors to do their small businesses for their sustainable jobs at home. On the other hand, the team of FOKUPERS is aware of the society in which their survivors live to understand more about the domestic violence around them; perhaps the social norms will be followed, and they will fight against domestic violence in the future.

The recommendation to the FOKUPERS is to continue the excellent job that they have done to aid the survivors of domestic violence around us and to extend it more in other municipalities or rural areas where it is still taboo to speak up about domestic violence in public or their own families. For this paper, the author would like to recommend to the Minister of Social Solidarity that they socialize and support more FOKUPERS for funding and material. Moreover, the FOKUPERS networking, which is strongly supported, will continue to support the communities in becoming aware of the issues of domestic violence.

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# ACCOUNTABILITY BEYOND THE STATE: A STUDY ON THE NATIONAL HUMAN RIGHTS COMMISSION OF THAILAND'S EXERCISE IN ADDRESSING THE EXTRATERRITORIAL HUMAN RIGHTS VIOLATIONS IN CAMBODIA

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## Abstract

This paper discusses the efficacy of the National Human Rights Commission of Thailand's (NHRCT) role in protecting human rights and providing access to remedies for transboundary human rights violations committed by Thai companies. In the early 2010s, the NHRCT was heralded as an institution that was paving the way for corporate responsibility towards human rights and development, making groundbreaking interventions in cases involving transboundary rights violations and holding Thai companies accountable for their actions in neighbouring countries. A decade later, with international progress towards a binding treaty on business and human rights and greater public awareness about human rights violations, the outcome of the NHRCT's interventions remains contested. Looking specifically at the examples and legacy of the NHRCT's investigations and reporting on human rights violations committed by Thai companies in the sugar industry in Cambodia, this paper will assess the institution's success in protecting human rights and providing access to remedies. This case study will also provide insight into the continued role and relevance of NHRIs in human rights protection architecture.

**Keywords:** business and human rights, extraterritorial obligations, Cambodia, Thailand, NHRI

## Introduction

Koh Kong was a landmark case in the discourse and development of our understanding of corporate accountability for transboundary human rights violations, with the National Human Rights Commission of Thailand (NHRCT) claiming its mandate to investigate and report on human rights violations committed by Thai companies in the sugar plantations in Koh Kong, Cambodia. It heralded the NHRCTs as a vanguard of human rights in the region and served as an important precedent on the application of the United Nations Guiding Principles on Business and Human Rights (UNGPs) on furthering the concept of state's extraterritorial obligations for human rights violations and on articulating the NHRCT's quasi-judicial role in human rights protection.

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<sup>1</sup> Michelle D'cruz is a student of the Institute of Human Rights and Peace Studies, Mahidol University, and this paper is part of a longer thesis entitled *Accountability beyond the State: A Study of the National Human Rights Commission of Thailand's Exercise of Extra Territorial Obligations towards Violations in Koh Kong, Cambodia*.



This paper looks at developments in the Koh Kong sugar case after the NHRCT's reports as a case study into the nature and impact NHRIs can have on human rights advancement and protection. Additionally, it addresses the question of how effective and relevant NHRIs can be in the face of rising authoritarianism of states and corporate capture at the global and national levels.

## **Methodology**

This paper adopts a qualitative method based on a critical analysis of relevant laws and secondary data on the NHRCT's investigations and reporting on Koh Kong.

## **Conceptual Framework**

### ***Koh Kong and the Tainted Transboundary Sugar Trail***

In August 2006, the Cambodian Government granted two economic land concessions in the Koh Kong Province to two Cambodian companies for industrial sugar production. These companies were jointly owned by a Thai company, Khon Kaen Sugar Industry Public Company Limited [KSL], with a 70 percent stake and thus effective control over the operations (Middleton & Pritchard, 2013). These concessions were supposed to be granted on state land; however, as with numerous cases across Cambodia, the concessions included land owned by local farmers who were then forcibly evicted (Equitable Cambodia & Inclusive Development International 2013, National Human Rights Commission of Thailand 2014). Following the forced evictions, there was a whole range of human rights violations, including violations of rights to work, to adequate standard of living, food, water, shelter and healthcare (Equitable Cambodia & Inclusive Development International 2013). There have also been reports of forced labour and child labour occurring in the plantations (Equitable Cambodia & Inclusive Development International 2013) and environmental damage, including the pollution of water sources surrounding the sugar production areas (Sanchaorenkitthawon, 2020). Sugar produced from this plantation was subsequently sold to UK sugar giant Tate & Lyle, whose parent company was American Sugar Refining Incorporated (Equitable Cambodia & Inclusive Development International 2013). This tainted sugar trail raises the question of who is responsible for the human rights violations that have occurred in Cambodian and how we pursue accountability for violations that have transboundary implications.

It is a case that reflected how transnational corporations can impact human rights in a multitude of ways; they may be created and bound by the laws of one country, but global supply chains and international trade ensure that their work and impacts on human rights extend beyond their home country. This is where the concept of states' extraterritorial obligations (ETOs) becomes

highly relevant to the question of how states can hold corporations accountable for human rights violations within the context of globalization. ETOs are the "human rights obligations states have beyond their national borders towards people living in other countries" (ETO Consortium, 2013); they recognize that the acts and omissions of states have an impact on the enjoyment of human rights beyond their territorial confines.

### ***NHRCT and Koh Kong***

Koh Kong was a landmark case for how National Human Rights Institutions (NHRIs) in the region were able to address and engage with transboundary human rights violations. The NHRCT was progressive and proactive in its approach to the case. It exercised its quasi-judicial role by interrogating its mandate, reviewing the applicable laws and assessing contextual and policy reasons that warranted the investigation (Pitakwatchara, 2012).

The NHRCT's report on Koh Kong recognised that human rights violations had occurred in the Koh Kong sugar plantation that KSL was "in part directly responsible for the impact of these human rights abuses, even though it did not directly commit the act of human rights violations", due to "the company's decision to receive and benefit from the land concessions which caused these human rights abuses"; and that Thailand and KSL had failed in their respective duties and responsibilities towards human rights (NHRCT, 2014). The report included specific recommendations to KSL and the relevant Thai ministries, the Ministry of Foreign Affairs, and the Ministry of Commerce, on the effective implementation of the UNGPs.

While the NHRCT was not able to provide a remedy for the Koh Kong community, their involvement in the case ended with their 2014 report and no follow-up action, a factor we will explore later in this paper. Nevertheless, it can be said that their involvement in Koh Kong, particularly in articulating ETOs, added to the advocacy arsenal, helping to grow the knowledge pool and hone legal and non-legal strategies. We see parallel strategies at play in 2013 when a suit was filed against Tate & Lyle in the UK courts claiming compensation from the company for profits earned from sugar processed on land belonging to the villagers (Business and Human Rights Resource Centre, 2013). Tate & Lyle's initial approach was to deny any liability or duty towards the affected community and to state that it would put pressure on its sugar supplier, KSL, to remedy the situation. The same year the case was filed in the UK, KSL offered 200 families 1.5 hectares of land, a tiny amount relative to the amount of land that each family had lost (Impact International, 2023, 10 July). The UK case against Tate & Lyle has produced some results in the form of a 2023 out-of-court settlement that saw 200 households receive monetary compensation for undisclosed sums paid by undisclosed supply chain actors (Business and Human Rights Resource Centre, 2013). The lawsuit was thus withdrawn, and the case closed, arguably with an unsatisfactory aftertaste. The impacts of KSL continue to be borne by the Koh Kong community, which has been left with contaminated water sources (Sanchaorenkitthawon, 2020).

The Koh Kong precedent enabled action by the NHRCT in multiple other cases, Oddar Mancheay, Dawei and Xayaburi, for instance, each replicating the process to some degree, continuing to apply pressure and put out policy recommendations to the government. These policy recommendations have led to Cabinet Resolutions on a number of issues, including calling on Thai investors to respect, protect and prevent adverse impacts on human rights, the environment and livelihoods and creating a mechanism to oversee Thai investors abroad to ensure that they respect the UNGPs (International Commission of Jurists, 2021 Feb). This mechanism took the form of the National Action Plan on Business and Human Rights (NAP) Implementation Monitoring Sub-Committee, which was created in 2020 with the power to provide input and recommendations to address human rights abuses caused by Thai businesses in Thailand and abroad (International Commission of Jurists, 2021 Feb).

## **Findings**

Revisiting NHRCT's role in Koh Kong 10 years after their report allows us to reexamine its impact and better understand how NHRIs can contribute to corporate accountability for transboundary human rights violations.

### ***The particularity of the 2014 NHRCT***

The NHRCT that produced the 2014 report on Koh Kong was a very particular entity, with the politics of the time, specific people at the helm and the sheer potential that it was attributed to. This particularity has yet to be replicated. Following the 2014 military coup, the NHRCT was significantly crippled and depoliticised. This is demonstrated most clearly in the NHRCT being downgraded from an “A” rating to a “B” rating in 2015, meaning it was only partly compliant with the Paris Principles that set out the minimum standards NHRIs need to meet to be credible and effective. Serious questions were raised about the NHRCT’s independence and neutrality, as well as questions about how Commissioners were selected and appointed (FORUM-ASIA, 2020, December 16).

In the aftermath of its downgrade, NHRCT operations and status have continued to plummet. Disciplinary proceedings were brought against Commissioner Angkhana Neelapaijit for observing a political case that was being tried in the courts, and the NHRCT received criticism for selecting only high-profile cases to act on instead of fulfilling their duty to human rights protection (FORUM-ASIA, 2020, December 16). The 2017 – 2019 period saw the resignation of four out of the seven commissioners (Chambers, 2021, March 23), with two specifically attributing it to a lack of independence (Prachatai, 2019, August 1).

Questions about the effectiveness of the NHRCT persisted into the subsequent accreditation cycle in 2020 when a joint statement from the Asian NGOs Network on National Human Rights Institutions (ANNI), along with Human Rights Watch, Protection International and others opposed any upgrade to its rating, stating, "The NHRCT continues to suffer from severe legitimacy challenges and a lack of public confidence because of its continued failure to effectively protect rights, its continually poor performance, and its politically compromised independence, all of which fall substantially short of the minimum international standards mandated in the Paris Principles" (FORUM-ASIA, 2020, December 16).

The current NHRCT batch of NHRCT commissioners has been criticized for being aligned to the establishment, being largely conservative or without experience and knowledge of human rights (Chambers, 2021, March 23). The calibre and courage of who is in the NHRCT matter when we recall what made Koh Kong work. In Koh Kong, the NHRCT's involvement and reporting were pushed forward by a progressive commissioner in the form of Dr Niran Pitakwatchara. We see this progressive streak in his articulation of the NHRCT's mandate and how he claimed jurisdiction in a preliminary report, noting that "as long as the relevant stakeholder is bound by Thailand's law and human rights obligations, the NHRC is committed to serving the interest of justice through human rights promotion and protection" (Pitakwatchara, 2012). Middleton shows support for this characterization of Dr. Pitakwatchara in tracing how NHRCT's work on ETOs began with individuals pushing forward the ETO agenda (2018).

Cumulatively, this indicates to us that NHRIs do not and cannot function optimally in an authoritarian setting where their mandates are weakened and their independence compromised. The closing of civil and political space also hinders investigative capacity, making it harder to bring violations to light and effectively protect human rights.

In Cambodia, we have seen the closing of civil society space under the Hun Sen regime and clampdowns on civil society that have significantly curtailed human rights activism. This turn towards authoritarianism is further buttressed by the fact that

### ***Interrogating the NHRCT in Koh Kong as a Precedent Setting***

When the NHRCT took on the Koh Kong case, Thailand, of course, had existing international human rights obligations. However, the extraterritorial dimension of those obligations has yet to be clarified or interpreted. The NHRCT, in the reports from their investigation, were able to link Thai human rights obligations to violations against communities in Cambodia because of the involvement of a Thai company in the violations (Pitakwatchara, 2012). Additionally, they articulated contextual and policy reasons for Thailand recognising its ETOs and this information was submitted to the government and policymakers (NHRCT, 2014). With no follow-up after its 2014 report and a failure to obtain any kind of remedy for the affected

community, we must interrogate the efficacy of using Koh Kong as a precedent for NHRI action on ETOs. The fundamental question we are asking is, thus, in the absence of any tangible outcome or concrete action, was there lasting value in the NHRCT's paper articulation of Thailand's ETOs towards the impacted communities in Koh Kong?

Despite the NHRCT's findings being non-binding and effectively unenforceable, its involvement supported the overall campaign and laid the foundation for the community's litigation claims against Tate and Lyle in the UK courts (Venisnik, 2015). NHRCT played a critical role in bridging the gap between the local communities and the international treaty bodies; Kjærsum describes the role as a relay mechanism between international human rights norms and the state (2003).

This relay mechanism of bringing international human rights norms home definitely has value in and of itself. Let's look at Koh Kong from a process perspective rather than solely at outcomes. We see that the process of being part of the investigation and involved in the transnational network engaging on ETOs was a good precedent that enabled the other investigations of ETOs and transboundary impacts of the NHRCT conducted in Cambodia, Laos and Myanmar. This notion of using being part of a process as a determinant of the effectiveness of the NHRCT's work in Koh Kong is also supported by Franck's legitimacy theory of how nations comply with rules and law, it states that nations are compelled to honour rules that they deem to have "come into being in accordance with the right process" (1990).

Additionally, there were practical benefits to the NHRCTs engagement, the NHRCT working along side civil society on the case was able to enable access to information, create a platform for discussing the human rights impacts of corporate activity and increase public awareness and media interest in the case (Middleton, 2018). Venisnik characterizes this perspective as looks at the "law as a tool for building people's power" on an issue (2015).

The NHRCT's investigation into sugar operations in Oddar Meanchey is a good example of Koh Kong's value as a process setting a precedent. Factually similar to Koh Kong, it involved similar human rights violations linked to a Thai sugar company operating in Cambodia (NHRCT 2015a). Looking at the process of the NHRCT's involvement, investigation and reporting, there are clear parallels. The NHRCT's involvement hinged on one of the stakeholders being Thai, in this case, the Mitr Phol Sugar Company Limited (NHRCT, 2015). The commissioner in charge of the case was once again Dr Pitakwatchara, who followed a similar process to what he did in Koh Kong, and his subsequent report echoed the format, arguments, legal analysis and justifications used in Koh Kong, with the notable development being that there was more engagement and interaction with the company accused of violations (NHRCT, 2015). Like Koh Kong, the NHRCT was able to find the Thai state and Mitr Phol liable but fell short of being able to give effect to a tangible remedy. NHRCT's recommendations on this case resulted in Cabinet resolutions

requiring Thai investors to respect and protect the rights of local people and avoid adverse impacts on the environment and livelihoods (Chandran, 2019). The impacted community subsequently brought the matter to the Thai court and is currently involved in a class action lawsuit against Mitr Phol (Chandran, 2019), Thailand's first transboundary class action lawsuit on human rights. Action is also underway against Coca-Cola, to whom Mitr Phol supplied Cambodian sugar. We see the Koh Kong process blueprint being applied and expanded upon.

### ***Smart Mix of Strategic Litigation and Strategic Information Sharing***

At the time of the NHRCT's investigation and reporting on Koh Kong, the process of expanding the UNGPs into a legally binding treaty had just begun. The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, which was set up in 2014, has held nine sessions so far, conducted multiple consultations, received input from multiple stakeholders and has produced a draft binding treaty that is being used as the basis for intergovernmental negotiations. Significant progress has clearly been made, but sticking points remain: states are hesitant about extending their duty to protect human rights beyond their territorial confines, and corporations are unwilling to have the need to respect human rights that come with legal ramifications.

Despite the universality of human rights being a key foundation of the international human rights system, states remain hesitant in recognising and implementing the extraterritorial dimensions of their human rights obligations. Common obstacles to state action on their ETOs include issues of jurisdiction, not wanting to impinge on the sovereignty of other states and a lack of political will to act outside their territorial confines. The reluctance of states to recognise and implement their ETOs, and thus their jurisdiction over a matter, has led to gaps in the international protection of human rights.

Suraya Deva, the current Special Rapporteur on the right to development, served on the working group between 2016 and 2022, served as UN advisor on issues related to business and human rights and has written extensively on UNGPs and corporate accountability. Deva argues for a 'middle path' between strengthening the treaty system and existing soft law standards (2022). The notion of a 'smart mix' taken from UNGPs combines mandatory and voluntary measures at national, regional and international levels to jointly foster business respect for human rights (GANHRI, 2024). We see this play out in the realities of holding corporations accountable for human rights violations in Koh Kon and Oddar Meanchey. A multitude of legal and non-legal strategies were used to get the states to exercise their duty to protect corporations, respect and comply with human rights standards, and provide an effective remedy to the situation (Lavitoria, 2013).

It can be argued that strategic litigation has been the only real strategy that has resulted in any sort of remedial process or compensation, as was the case in Koh Kong and Oddar Meanchey. Nevertheless, the ICJ notes while strategic litigation is a 'central remedial avenue,' there are numerous barriers to entry that restrict impacted communities' ability to pursue this avenue; these include restricted access to the judiciary, particularly in foreign countries, the complexity of having to navigate multiple legal systems and the lack of a legal framework in the home country for governing corporate responsibility for human rights impacts of investment overseas (2021, Feb).

Even in the absence of a positive legal outcome, strategic litigation can be an important tool in human rights advocacy as it empowers communities to claim their rights, raises public awareness on the issue, influences decision-making processes and even brings about changes in law, policy and practices (Venisnik, 2015). Strategic litigation, as useful and powerful as it is, is part of the process, or a 'smart mix' of advocacy efforts that push every possibility and opportunity to pursue litigation often arises as a result of other advocacy processes paving the way. This proposition can be supported by the observation that litigation efforts in Koh Kong developed in response to the circumstances, the goals and objectives of the affected community and the responsiveness or success in pursuing a particular complaint (Enriquez Lavitoria, 2013).

In the context of a 'smart mix' approach, we can look back at the NHRCT in Koh Kong as a successful case of how a transnational advocacy network can operate. Middleton characterizes the "collaborative relationship" between NHRIs and transnational civil society networks as one in which NHRIs have the political power to investigate cases while civil society plays a critical role in raising awareness, research, and advocacy (2018).

The fluid and open relationship between committed actors with knowledge and expertise on an issue was identified as one of the factors that made transnational networks so effective (Sikkink & Keck, 2014), and we see this clearly in the matrix of information sharing and strategizing on Koh Kong. Sikkink and Keck's work on transnational advocacy networks notes that by building new links between civil society, states and international forums, they increase channels of access to the international system (2014). They argue that the significance of the networks is often underestimated, and their uniqueness lies in how the process empowers non-traditional actors to mobilize information strategically to shape issues, make them understandable and clear, campaign and attract attention to these issues and place pressure on more powerful institutions and states (2014). Specifically studying transnational advocacy networks in Cambodia, Young notes that they were resourceful and a useful tool for applying pressure to influence international stakeholders at each stage of the sugar supply chain (2017). The NHRCT's investigation and reporting in Koh Kong, supported by a network of national and regional actors, strategically presented critical information linking rights violations to states human rights obligations, explaining the basis of the extraterritorial dimension of those obligations and articulating remedies and policy measures that needed to be taken (2014). In a rights regime on



corporate accountability that is still developing, these actions and interactions have a lasting value in creating the outcomes we eventually want to achieve. "Legal advocacy and strategic litigation efforts play into larger campaigning actions. Their ultimate aim lies beyond winning a particular legal case; it is about building people's power and helping create more equitable societies." (Venisnik, 2015).

## **Conclusion**

A decade after the NHRCT's landmark report on Koh Kong, the NHRI is a shell of its former self. Political conditions in both Thailand and Cambodia have been tumultuous with a military coup in Thailand and the closing of civil society space in Cambodia under the Hun Sen regime that has restricted the ability of civil society, jailed activists and members of impacted communities who are fighting for their rights. Beyond those borders, we are in a global society that has more access to information than ever before; discussions on human rights and business impact on them have made their way to social media, reaching newer and younger audiences. Nevertheless, faith in the international order and international law seems to be dipping, with the significant lapses in the global response to the COVID-19 pandemic, greater public awareness of the limitations of the UN and increasing corporate involvement and capture of multi-stakeholder spaces. It is an opportune time to revisit Koh Kong and question the continued role and relevance of NHRIs in human rights protection architecture. I would argue that their role and relevance remain important because of the messy and interconnected way in which corporate accountability for human rights violations plays out. NHRIs doing what the NHRCT did in Koh Kong will continue to add to and strengthen transnational advocacy networks. Furthermore, with Thailand's return to democratic governance and its being a regional leader on human rights issues like marriage equality for the LGBTQI+ community, it decriminalizes marijuana in the context of a region that is insistent on fighting a war on drugs. The prospect of an NHRCT compliant with Paris Principles, adequately funded and with experienced human rights advocates at the helm could be a game changer.



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**ANALYZING AND SYNTHESIZING DEFAMATION AND INSULT OFFENCES:  
DEVELOPING A PREVENTATIVE FRAMEWORK FOR MONITORING  
DEFAMATION AND INSULT OFFENCES ON SOCIAL MEDIA**

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**Abstract**

In the age of social media, the relentless flow of information has led to a troubling increase in cyberbullying and violations of defamation and insult laws, specifically under Sections 326 and 393 of the Thai Criminal Code. This growing concern underscores the urgent need for tools to monitor social media content and provide public guidance on these legal boundaries. This research aims to address this need through a preventative approach with the following objectives: 1) To study and analyze Sections 326 and 393 of the Thai Criminal Code. 2) To study, analyze, and synthesize Supreme Court judgments pertaining to offences under Sections 326 and 393. 3) To extract and collect keywords, phrases, and sentences from these judgments. 4) To design a framework utilizing a computational linguistics approach for detecting offensive language and advising the public on legal boundaries while ensuring the right to free speech. The research aims to extract 48 keywords and 20 sentences indicative of violations under Sections 326 and 393. These elements form a robust prototype for input into the developed framework. The framework operates effectively in both online mode, offering real-time detection and guidance, and offline mode, allowing for comprehensive data entry and search capabilities. This dual-mode functionality ensures that the framework can provide timely advice to prevent legal violations while simultaneously offering protection against cyberbullying. By adopting a preventative approach, this framework serves as a foundational model for developing software to help the public navigate and comply with defamation and insult laws, ultimately fostering a safer and more respectful online environment.

**Keywords:** Criminal Law, Criminal Code Section 326, Criminal Code Section 393, Supreme Court Judgement, framework, detection, defamation, contempt

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## **Introduction**

Defamation involves making a false statement about someone to a third party in a manner likely to harm their reputation, subject them to contempt, or cause them to be hated. This action damages the reputation and honor of the person being defamed, or, in other words, their right to honor and reputation is harmed by such actions (Disorn, 2024). It constitutes a criminal offence under Section 326 of the Thai Criminal Code, which stipulates that: Whoever imputes anything to the other person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to be hated or scorned, is said to commit defamation, and shall be punished with imprisonment not exceeding one year or fined not exceeding twenty thousand Baht, or both.

Additionally, it may also violate Section 393, which states that: Whoever insults another person in their presence or in a manner such that the other person can hear or see, shall be punished with imprisonment not exceeding one month or a fine not exceeding one thousand Baht, or both.

In the contemporary era, people are surrounded by an immense amount of information that is introduced into online society. It has been observed that there is a significant increase in the number of individuals committing defamation offences under Section 326 of the Criminal Code and insults under Section 393 of the Criminal Code, primarily due to the growing number of internet users (Phiukhao, 2020). This increase is associated with the use of various platforms such as blogs, Facebook, LINE, Twitter, microblogging, social networking, media sharing, and even mobile phones (Rattanachai, 2016). Notably, a report by the Free Word Centre and Article 19 highlighted that defamation cases in Thailand tend to exceed 3,000 cases per year (Article 19, 2024), which is consistent with trends in the ASEAN region as discussed in the article by Disorn (2024).

The increase in offenders means that there are also more victims of such actions, including verbal bullying and cyberbullying. Despite over a decade of studies on internet usage problems, such as legal issues related to defamation on the internet (Duangsuwan, 2014), Protection of the Honour: A Study of Legal Virtues in Offences on the Grounds of Insult in Comparison with Defamation (Pentakungchai, 2009), and Criminal Prosecution for Defamation to Prevent Participation in the Investigation of Corruption and Misconduct by State Officials (Soontornweera, 2017), there are still ongoing studies such as Interpretation of Criminal Law: Case of Defamation by Using Telephone (Rattanachai, 2016), Law on Defamation: Posting Messages in LINE Application Groups (Jitrakan, 2021), and Defamation on Social Media (Phiukhao, 2020). However, the public and law enforcers, who need to be aware and knowledgeable about actions that may constitute defamation or online insult, still lack mechanisms or tools to help monitor or provide guidance to the public on such offences.

Due to this necessity, the research team recognizes the importance of seeking mechanisms and tools to help monitor and guide the public through a preventive approach. The objective is to maintain a balance between promoting the right to freedom of expression and protecting the public from verbal bullying and cyberbullying. This will be achieved by developing a computer-based system for use on the internet and social media, in the form of a "framework," which is an infrastructure designed to make repetitive or complex tasks more manageable. Notably, in terms

of solving the problem of creating a system to monitor and provide guidance on offences under Sections 326 and 393 of the Criminal Code, considering a computer-based solution, this falls under the domain of Natural Language Processing (NLP). NLP aims to help computers understand, interpret, and use human language for communication. One of the principles of NLP is impolite word detection or rude word detection, which is found in classifying messages as defamatory on social media (Arirat, 2018). The multi-layer perceptron algorithm has been found to be the most effective, with an accuracy rate of 93 percent. Currently, impolite word detection can achieve an accuracy rate of 100 percent (Charungchit, 2024) using a technique that creates a dictionary stored with an inverted list as a core mechanism for instant data analysis.

The research process is divided into the following steps: 1) Study and analyze Sections 326 and 393 of the Thai Criminal Code; 2 ) Study, analyze, and synthesize Supreme Court judgments on offences under Sections 326 and 393; 3) Extract and compile keywords, phrases, and crucial sentences from the Supreme Court judgments related to these offences; and 4) Design a framework for detecting and providing guidance to the public on these offences using impolite word detection algorithm based on computer science methodologies, as evidenced by Charungchit (2024).

Underlying this research is the assumption that by studying and analyzing criminal laws under Sections 326 and 393, along with studying and extracting keywords, phrases, and sentences from Supreme Court rulings, it is possible to design a framework for detecting and providing guidance to the public on these offences in both offline and online modes.

**Conceptual Framework Design**

The basic framework concept for constructing a framework is illustrated in the Figure 1.

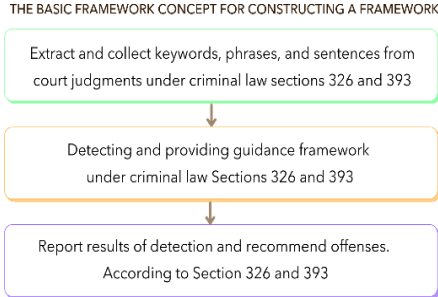


Figure 1: Framework format at the Abstract Conceptual Idea level

The design concept of the main framework can be illustrated as follows:

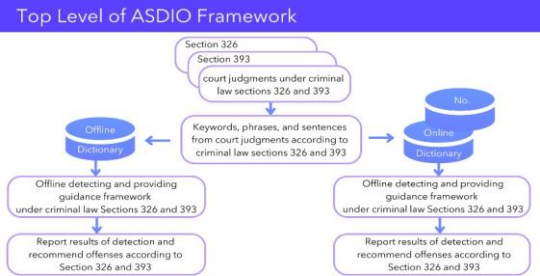


Figure 2: Top Level of ASDIO Framework

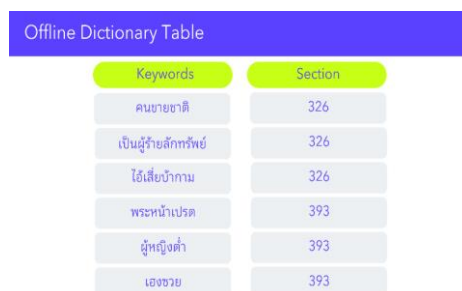
## Designing the Offline Mode Framework

The offline mode framework is designed with the objective of enabling users to develop formats or applications that operate offline. Users input words, phrases, or sentences for the framework to inspect and report whether these inputs constitute offences under Sections 326 or 393. The framework stores these inputs within a dictionary and follows a process to detect and search for the specified words, phrases, and sentences, subsequently providing a report on the results.

### Designing the framework involves the following:

**Input Data:** Key components include dictionaries and detection processes. Input data consists of texts, keywords, and sentences derived from legal judgment analysis.

**Dictionary Design:** The dictionary refers to a computer-based compilation of input data organized to ensure compatibility with the detection process. The offline dictionary format utilizes tables to store words, phrases, offences, and examples, as illustrated below:



| Offline Dictionary Table |         |
|--------------------------|---------|
| Keywords                 | Section |
| คนขายชาติ                | 326     |
| เป็นผู้ร้ายลึกลับ        | 326     |
| ใช้เสียปากกาน            | 326     |
| พระหน้าปรด               | 393     |
| ผู้หญิงต่ำ               | 393     |
| เอชชวย                   | 393     |

Figure 3: Concept of Offline Dictionary

## Creating Dictionary Construction Process

**Input:** Text, Keywords and Sentences obtained from the analysis of Supreme Court judgments from 1 to n words/phrases/sentences along with specifying the legal basis.

- Establish storage space for the dictionary in a table format.
- Read words/phrases/sentences from the input data.
- Record vocabulary terms and associated legal bases in the dictionary.
- If all words/phrases/sentences are imported, conclude the operation. Prepare the dictionary for the search process. If not, move to the next word/phrase/sentence and proceed with step 3.
- End of operation.

## Creating Detection Process

**Input:** Words/phrases/sentences that users want to check.

- Enter words/phrases/sentences into the system using the framework.
- Search for words/phrases/sentences in the input data to determine if they exist in the dictionary.
  - If found, report the results indicating the legal violation under which clause using data from the dictionary.
  - If not found, report that the words/phrases/sentences entered are not in the framework system.

- End of operation.

### Displaying Detection Results

The results are displayed with text, including both the vocabulary terms and the detected relevant legal sections, or a message indicating that no matching text was found in the framework.

### Designing Online Framework Operation

The online framework operates with the objective of allowing users to develop formats or applications that function offline. It involves inputting words, phrases, or sentences for the framework to check and report whether these inputs violate Article 326 or 329. Within the framework, these statements are stored in a dictionary, and the detection process involves searching for and comparing each letter inputted into the system immediately. It reports the detection results sequentially letter by letter until all inputs are checked or until the user stops the process.

### Framework Design:

- Input Data: Crucial components include dictionaries and detection processes. Input data comprises text, keywords, and sentences obtained from analyzing court judgments.
- Dictionary Design: The dictionary refers to a computer-based dictionary used to store input data for consistent search and detection processes. The online dictionary format employs a reference table for storing words, phrases, and legal clauses, enabling immediate and continuous detection of inputs. This design is specifically tailored using research-based referencing principles for detecting impolite words with 100 percent accuracy (Kanida, 2024) utilized in the design process. Show the concept of designing a dictionary for use as a reference table as follows:

| Online Dictionary Table |                     |         |
|-------------------------|---------------------|---------|
| No.                     | Keywords            | Section |
| 1                       | คนขายชาติ           | 326     |
| 2                       | เป็นผู้ขายสิทธิบัตร | 326     |
| 3                       | ได้เสียบ้าน         | 326     |
| 4                       | พระหน้าปรด          | 393     |
| 5                       | ผู้หญิงต่ำ          | 393     |
| 6                       | แดงชวย              | 393     |

Figure 4: Online dictionary concept before storing in HT-Dictionary (reference table)

The HT-Dictionary dictionary format is presented with a variation based on the guidelines for detecting inappropriate words that can detect accuracy values of 100 percent (Charungchit, 2024). As shown in the following Figure 5.

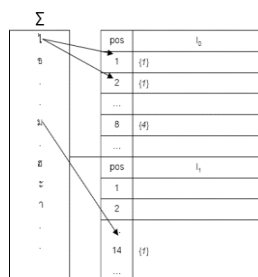


Figure 5: an example of creating an HT-Dictionary.



### **Creating a Dictionary Creation Algorithm**

Input: Text, keywords, sentences obtained from judgment analysis, from 1 to n words/phrases/sentences, along with the specification of the offense base

Pre-Condition: Algorithm for creating an offline dictionary by adding a sequential column

- Create a dictionary storage area according to the format in the form of a table with the following characteristics:
  - Character column
  - Variation list
- Read words/phrases/sentences from the input data from the Pre-Condition table
- Save in the character column and assign the character position and sequence number of the word/phrase/sentence from the Pre-Condition table. Proceed character by character, from the first to the last character of the imported word/phrase/sentence.

- If all words/phrases/sentences have been imported, the process is complete.

The dictionary is prepared for the search step. If not all words/phrases/sentences have been imported, read the next word from the Pre-Condition table and proceed to step 3.

- End of process

### **Creating a Detection Algorithm**

Input: Character that the user wants to check online

- Access the HT-Dictionary dictionary format table
- Search for characters that appear in the pre-created words/phrases/sentences character by character
  - If found, check if it is the last character of a word/phrase/sentence:
    - If yes, report that it matches the number of which word/phrase/sentence and then access the reference table to report the offense section. Wait for the search results to report whether there is an offense according to the offense base in which section.
      - If not, store the word/phrase/sentence number to wait for the next search. Analyze whether it is a continuous character of which word/phrase/sentence.
  - If not found, the character is not found, and the process is complete.
- End of process

### **Methodology**

Research Process:

- The research involves a documentary analysis studying Articles 326 and 393 of the Criminal Code, focusing on offences related to defamation and insulting behaviour.
- Detailed study and analysis of judicial precedents, extracting keywords, important messages, and significant sentences from the judgments under the aforementioned offences.
- Designing an algorithmic framework to be used in the development of a system for detecting and recommending the words, phrases, and sentences that constitute the aforementioned offences.

The framework design includes the following components: Input data, Dictionary, Methodology for dictionary construction, Detection methodology and Output display of detections.

## Results

The forthcoming research presentation will encompass several key components. Firstly, it will detail the findings from an in-depth analysis of terminology associated with defamation offences, drawing from comprehensive scrutiny of relevant court rulings. Secondly, it will outline findings from a similar analysis concerning language used in cases involving insulting behaviour, similarly grounded in judicial decisions. Additionally, the presentation will elucidate the architecture of a dual-mode framework designed for both offline and online applications. This framework aims to enhance detection and recommendation systems for identifying language indicative of the aforementioned offences.

Furthermore, the presentation will include practical guidelines for developing procedural methodologies, along with illustrative examples tailored for computer programming applications. As a result of this research endeavor, a concise summary comprising 48 pivotal words, phrases, and sentences encapsulating defamation offences as outlined in court judgments will be presented, visually depicted in Figure 6.

|    |                           |    |                           |    |                       |
|----|---------------------------|----|---------------------------|----|-----------------------|
| No | defamation                | 18 | มีความเสียหายตน           | 34 | พยานทั้งสองคน         |
| 1  | ผิด                       | 19 | เป็นไปพร้อมกัน            | 35 | มรดก                  |
| 2  | โจ่ง                      | 20 | ปากกาม                    | 36 | แต่ส่งข่าวลือว่า      |
| 3  | จโมล                      | 21 | ทนายความซึ่งเป็นสองทาง    | 37 | เขาเลิกให้สัญญา       |
| 4  | กระหึ                     | 22 | ชายสี่คนออกจวง            | 38 | เขาเลิกกินว่า         |
| 5  | ผิดวิธี                   | 23 | ใช้ยานพาหนะที่ผิด         | 39 | ใช้เงินว่า            |
| 6  | รับสินบน                  | 24 | ชกชกคนมาตลอด              | 40 | เป็นขณะเดียวกัน       |
| 7  | เป็นพยาน                  | 25 | ผิดกฎหมายเงิน             | 41 | พูดคำ                 |
| 8  | กระหึที่อื่น              | 26 | ทำไปโดยความสมัครใจ        | 42 | เขาขาย                |
| 9  | ไม่คู่ควรไปราชการ         | 27 | ไม่ทำตามที่ผู้บังคับบัญชา | 43 | รับเงินได้สี่         |
| 10 | มาขายเป็นประจำ            | 28 | ชกชกและ                   | 44 | คนญี่ปุ่น             |
| 11 | รับเงินเข้ามาแล้วไม่ทำงาน | 29 | คนขายชาติ                 | 45 | ล้มเลิกข้อตกลง        |
| 12 | คำผู้ขาย                  | 30 | เป็นผู้ขายทรัพย์สิน       | 46 | เป็นผู้กินสินทรัพย์   |
| 13 | รับสินบน                  | 31 | ใช้เงินไป                 | 47 | เป็นคนที่กินและทุจริต |
| 14 | เป็นคนที่กิน              | 32 | ผิดวิธี                   | 48 | ผิดวิธี               |
| 15 | เป็นคนที่กินทรัพย์สิน     | 33 | นกลอยฟ้า                  |    |                       |
| 16 | เป็นคนที่กินทรัพย์สิน     |    |                           |    |                       |
| 17 | ทรัพย์สินแล้ว             |    |                           |    |                       |

Figure 6: The text of defamation offences

The keywords, phrases, and sentences that summarize offences of insulting behaviour based on court judgments, totaling 20 statements, are shown in Figure 7.

|    |          |    |            |    |           |
|----|----------|----|------------|----|-----------|
| No | insult   | 8  | ใช้เงินไป  | 15 | ใช้เงินไป |
| 1  | ใช้เงิน  | 9  | พระหน้าผี  | 16 | ใช้เงินไป |
| 2  | ใช้เงิน  | 10 | พระหน้าผี  | 17 | ใช้เงินไป |
| 3  | ใช้เงิน  | 11 | ผู้หนึ่งทำ | 18 | ใช้เงินไป |
| 4  | ใช้เงิน  | 12 | เอชชช      | 19 | ใช้เงินไป |
| 5  | ใช้เงิน  | 13 | ใช้เงินไป  | 20 | ใช้เงินไป |
| 6  | ใช้เงิน  | 14 | ใช้เงินไป  |    |           |
| 7  | มารศาสนา |    |            |    |           |

Figure 7: The text of insulting behaviour offences

Take the aforementioned important texts and develop them into a framework following computer science algorithm design principles, for use in developing either an application or a public guide. This framework supports both real-time online detection and instant online recommendation formats. The operational framework is outlined as shown in figure 8.

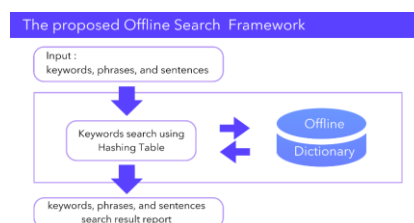


Figure 8: The proposed Offline Search Framework

## Designing the methodology for creating a dictionary and offline search

Offline-Dictionary is a dictionary constructed using a Perfect Hashing Table generated from a complete hashing table. It includes vocabulary related to Articles 326 and 329. The detection process involves inputting text, then hashing it using the input as the key, employing the function  $f(T)$  for hash retrieval. Upon obtaining results, it returns the corresponding offense under the specified articles. Related procedures and usage examples are detailed in Table 1.

**Table 1:** Outline of offline framework for adapting to computer programming

| <b>Variable Explanation:</b> $W = \{w_1, w_2, w_3, \dots, w_r\}$ represents the set of vocabulary words analyzed from offences under Articles 326 and 393. <i>RESULTS</i> is a variable used to store the search results. $T = t_1t_2t_3 \dots t_n$ is the text to be searched.   |   |
|---|---|
| Pseudo Code Pre-processing  | Pseudo Code of Searching  |
| <p><b>Algorithm 1: Creating Offline-Dictionary</b><br/> <b>Input:</b> <math>W = \{w_1, w_2, w_3, \dots, w_r\}</math><br/> <b>Output:</b> Offline-Dictionary</p> <ol style="list-style-type: none"> <li>1. Create empty Offline-Dictionary</li> <li>2. For <math>i=1</math> To <math>r</math> Do</li> <li>3     insert word <math>w_i</math> into the first column in Offline-Dictionary, and Section number in the second column</li> <li>4. End of For</li> <li>5. Return Offline-Dictionary</li> </ol>  | <p><b>Algorithm 2: Offline-Searching</b><br/> <b>Input:</b> Offline-Dictionary, <math>T = t_1t_2t_3 \dots t_n</math><br/> <b>Output:</b> Number of Section/false (if does not found.).</p> <ol style="list-style-type: none"> <li>1. <math>RESULTS = \{\}</math></li> <li>2. <math>RESULTS \leftarrow f(T)</math> from Offline-Dictionary</li> <li>3. If <math>RESULTS \neq \emptyset</math> Then</li> <li>4.     Report the Section number in RESULTS</li> <li>5. Else</li> <li>6.     Report "Not Found."</li> <li>7. End of If</li> <li>8. Return</li> </ol> |
| <p><b>Example Usage:</b> Offline keyword detection. When the text <math>T = "ไอ้หน้าโจ"</math> is inputted, using the Offline-Dictionary where "ไอ้หน้าโจ" is a key in the hashing table as previously mentioned, and it is associated with offense under Article 326. When the user enters "ไอ้หน้าโจ" and triggers the framework to search, it encodes the key using <math>f("ไอ้หน้าโจ")</math>, which retrieves the value from the hashing table in the dictionary. It returns Article 326 as the result and stores it in <math>RESULTS = 326</math>. The outcome reported indicates that "ไอ้หน้าโจ" has been found in the specified offense category.</p> |   |

Next, take these important texts and develop them into a framework following computer science algorithm design principles, for use in developing either an application or a public guide. This framework supports both real-time online detection and instant online recommendation formats. The operational workflow for the online framework is illustrated in Figure 9.

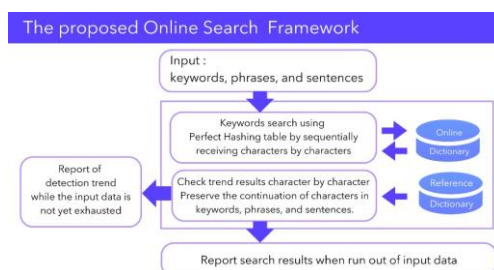


Figure 9: The proposed Online Framework

## Designing the procedure for creating a dictionary and conducting online searches

HT-Dictionary Design: HT-Dictionary is a hashing dictionary created from a Perfect Hashing Table, which includes entries from an Inverted List (IVL Table). It comprises two levels of hashing: the first level uses  $f(c)$  as a key to access  $pos$ , and the second level uses  $f(pos)$  to access either I0 or I1 in the secondary level of the hashing table, as conceptualized in Figure 5. The search process begins by sequentially receiving characters from the text ( $T = t_1t_2t_3 \dots t_n$ ). Each character

is compared against the entries in the Inverted List (IVL Table) dictionary. If a character is found in the IVL Table dictionary, following the concept in Figure 5, the search starts by initializing SET1 and SET2. It then scans to compare the continuity of I1 and I0 fetched from HT-Dictionary at the position pos of T[tN]. Each detection instance stores the IVL entry I1 or I0 temporarily in SET1 or SET2, respectively. These entries are subsequently intersected to determine character continuity and the success of the detection process. This methodology is presented in detail in Table 2.

**Table 2:** Outline of online framework for adapting to computer programming

| <p><b>Variable Explanation:</b> <math>W = \{w_1, w_2, w_3, \dots, w_r\}</math> represents the set of vocabulary words analyzed from offences under Articles 326 and</p> <p>393. <i>RESULTS</i> is a variable used to store the search results. <math>T = t_1t_2t_3 \dots t_n</math> is the text to be searched. <i>SET1</i> and <i>SET2</i> are temporary variables that store sets I1 and I0 respectively during the detection process. <math>\cap</math> is the function that finds the intersection result between sets <i>SET1</i> and <i>SET2</i>.</p>  |   |
|--|---|
| Pseudo Code Pre-processing   | Pseudo Code of Searching  |
| <p><b>Algorithm 3: Creating HT-Dictionary</b><br/> <b>Input:</b> <math>W = \{w_1, w_2, w_3, \dots, w_r\}, \Sigma</math><br/> <b>Output:</b> HT-Dictionary<br/> 1. Create empty HT-Dictionary<br/> 2. For <math>i=1</math> To <math>r</math> Do<br/> 3. For <math>j=1</math> To <math>m</math> of <math>w_i</math> Do<br/> 4. If <math>c_j</math> of <math>w_i</math> does not exist in HT-Dictionary Then<br/> 5. Store <math>c_j</math> as a new key, and <math>j</math> as pos in HT-Dictionary Level 1<br/> 6. End of If<br/> 7. Create <math>I_0</math> if <math>j &lt; m</math> of <math>w_i</math> or Create <math>I_1</math> if <math>j = m</math> of <math>w_i</math><br/> 8. Store <math>I_0</math> or <math>I_1</math> to HT-Dictionary Level 2<br/> 9. End of For<br/> 10. End of For<br/> 11. Return HT-Dictionary</p>   | <p><b>Algorithm 4: Online Searching</b><br/> <b>Input:</b> HT-Dictionary, min length of <math>W, I_1, I_2, T = t_1t_2t_3 \dots t_n</math><br/> <b>Output:</b> Section number/false (if T does not found).<br/> 1. <math>N = 1, pos = 1, SET1 = SET2 = null, RESULTS = \{\}</math><br/> 2. <math>SET1 \leftarrow (I_0 \text{ or } I_1 \text{ of } T[t_1])</math> in HT-Dictionary with <math>pos, N++</math><br/> 3. While (<math>N \leq n - min</math>) Do<br/> 4. Report the matched position if <math>SET1</math> contains <math>I_1</math>,<br/> 5. If matched Then<br/> 6. Get the Section number and report from <math>f(\text{matched number of word}) \leftarrow</math> Reference Dictionary<br/> 7. End of If<br/> 8. If <math>SET1 \neq \emptyset</math> Then<br/> 9. <math>pos++</math><br/> 10. <math>SET2 \leftarrow (I_0 \text{ or } I_1 \text{ of } T[t_2])</math> in HT-Dictionary with <math>pos</math><br/> 11. <math>SET1 \leftarrow SET1 \cap SET2</math><br/> 12. Else<br/> 13. <math>pos = 1</math><br/> 14. <math>SET1 \leftarrow (I_0 \text{ or } I_1 \text{ of } T[t_1])</math> in HT-Dictionary with <math>pos</math><br/> 15. End of If<br/> 16. <math>N++</math><br/> 17. End of While<br/> 18. Return</p> |
| <p><b>Example of Use:</b> Detection of offences under Articles 326 and 329, with text <math>T = \text{"ไอ้หน้าใจ"}</math>, using the dictionary as depicted in Figure 2. The sequence of detection steps is as follows:</p>  |   |
| <ol style="list-style-type: none"> <li>1. Search for character "ไอ้". SET1 is not empty, resulting in "ไอ้" = <math>\langle \{1 : 0 : \{3, 4, 5\}\rangle</math> indicating that "ไอ้" matches with an offensive word at position 1, the word is not terminated (Terminated = 0), and it appears in positions 3, 4, and 5. Proceed to store the results of "ไอ้" in SET1.</li> <li>2. Search for character "า". The result is "า" = <math>\langle \{2 : 0 : \{1, 3, 4, 5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{2 : 0 : \{3, 4, 5\}\rangle</math>. Since <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated, continue.</li> <li>3. Search for character "อ้อ". The result is "อ้อ" = <math>\langle \{3 : 0 : \{3, 4, 5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{3 : 0 : \{3, 4, 5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>4. Search for character "ห". The result is "ห" = <math>\langle \{4 : 0 : \{1, 5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{4 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>5. Search for character "น". The result is "น" = <math>\langle \{5 : 0 : \{5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{5 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>6. Search for character "า". The result is "า" = <math>\langle \{6 : 0 : \{5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{6 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>7. Search for character "อ้อ". The result is "อ้อ" = <math>\langle \{7 : 0 : \{5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{7 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>8. Search for character "ไอ้". The result is "ไอ้" = <math>\langle \{8 : 0 : \{5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{8 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>9. Search for character "ง". The result is "ง" = <math>\langle \{9 : 0 : \{5\}\rangle</math> stored in SET2. <math>SET1 \leftarrow SET1 \cap SET2 = \langle \{9 : 0 : \{5\}\rangle</math>. <math>SET1 \cap SET2 \neq \emptyset</math> and the word is not terminated.</li> <li>10. Search for character "อ้อ". The result is "อ้อ" = <math>\langle \{10 : 1 : \{5\}\rangle</math> with Terminated = 1 indicating the end of the word. Therefore, the offensive word found is <math>W5 = \text{"ไอ้หน้าใจ"}</math>.</li> </ol> <p>Afterwards, the framework compares <math>W5 = \text{"ไอ้หน้าใจ"}</math> to determine the offense under which article, using the referenced dictionary for continued operation.</p> |   |

## **Conclusion**

Given the necessity in the digital age where information flows rapidly, there has been an increase in defamation offences under Section 326 and insults under Section 393 of the Criminal Code online. From a legal perspective and that of the public, there is a need for tools to detect or warn about potentially problematic information before it is entered into computer systems as a preventive measure. This research aims to develop a framework to detect and provide guidance to the public on such behaviour, utilizing impolite word detection algorithms based on computer science. The objectives of the research are to study and analyze Sections 326 and 393 of the Criminal Code, analyze relevant Supreme Court rulings, extract and compile key words, phrases, and sentences from the rulings, and develop a detection and guidance framework. The research methods include studying and analyzing the relevant legal sections, analyzing Supreme Court rulings, extracting and compiling key phrases, and developing the framework using impolite word detection algorithms. The results show that 48 key items from Section 326 rulings and 20 from Section 393 rulings were extracted and compiled. The framework developed can be used both online and offline. It is recommended that this framework be further developed into a computer program for practical use, helping to reduce online defamation and insult offences while protecting the public from becoming victims, thus maintaining a balance between promoting freedom of expression and protecting individuals' honor and reputation.

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# BRIDGING THE GAP BETWEEN LOCAL AND GLOBAL HUMAN RIGHTS VALUES: THE ROLE OF ADVOCATES IN THE PHILIPPINES

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## Abstract

This research explores the gap between the Philippines' local and global human rights values. It examines the influence of colonial legacy, economic disparities, and cultural diversity on the local perception of human rights. It highlights the role of human rights advocates in bridging this gap. Through a comparative literature review and interviews with human rights advocates, this study aims to provide insights into effective advocacy strategies that resonate with grassroots communities in the Philippines.

Keywords: Global Human Rights Values, Local Human Rights Values in the Philippines, Human rights advocates in the Philippines

## Introduction

Human rights are universally recognized principles intended to protect all individuals' fundamental dignity and equality. These principles are enshrined in international documents such as the Universal Declaration of Human Rights (UDHR) and are intended to apply universally, regardless of cultural, political, or social contexts. However, human rights practical interpretation and application can vary significantly across different societies. This variation often leads to a gap between global human rights norms and local human rights values.

This gap is particularly pronounced in the Philippines, a nation with a complex history of colonization, authoritarianism, and cultural diversity. The country has experienced prolonged periods of foreign rule by Spain, the United States, and Japan, which have left deep-seated economic and social disparities. These historical experiences and contemporary political dynamics have significantly influenced the local understanding and prioritization of human rights.

Under the leadership of President Rodrigo Duterte, the Philippines has garnered international attention for its aggressive anti-drug campaign and the resulting human rights violations. Despite widespread condemnation from global human rights organizations, Duterte has maintained significant domestic support, raising critical questions about the value and perception of human rights among grassroots communities in the Philippines.

research seeks to explore the gap between local and global human rights values in the Philippines from the perspective of human rights advocates. It aims to understand how colonial

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<sup>1</sup> Nattida Phonyong is a student of APMA Program of Institute of Human Rights and Peace Studies, and this paper is part of the thesis with similar title.

legacy, economic disparities, and cultural diversity shape local human rights values and examines the role of human rights advocates in bridging this gap. This study aims to provide insights into effective advocacy strategies that resonate with grassroots communities in the Philippines by conducting a comparative literature review and interviews with human rights advocates.

Through this exploration, the research seeks to contribute to the broader discourse on human rights by highlighting the importance of the Vernacularization of global human rights principles to fit local realities. It emphasizes the need for human rights advocates to engage directly with communities, understand their unique contexts, and frame human rights in ways that resonate emotionally and practically with diverse audiences.

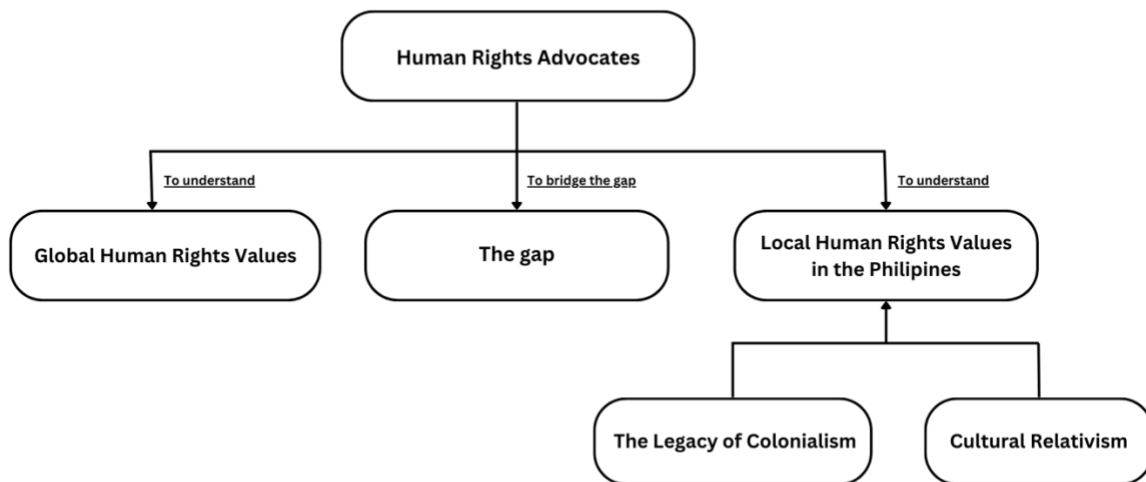
## Methodology

This research utilized a qualitative method and employed a comparative approach. Firstly, the researcher compared existing literature on local and global human rights values in the Philippines, including historical documents, academic articles, and reports from human rights organizations. The characteristics of local human rights in the Philippines were compared with global human rights to identify key differences between them. An analysis was performed to identify the gap between local human rights values and global human rights norms and principles. Based on this analysis, a question set was designed to conduct interviews further.

In the second phase, interviews were conducted with human rights advocates. A sample of five human rights advocates from different organizations that work closely with grassroots communities in the Philippines was selected. Semi-structured interviews were then conducted with the selected advocates, using questions based on the analysis from the comparative review.

## Conceptual Framework

**The Gap Between Local and Global Human Rights Values  
in the Perspective of Human Rights Advocates in the Philippines**





The Role of Advocates in the Philippines provides a structured approach to understanding the divergence between local and global human rights values. It explores how historical, cultural, and economic factors influence local perceptions of human rights and the strategies used by advocates to address these differences. Global human rights values, as enshrined in international documents like the Universal Declaration of Human Rights (UDHR), emphasize civil and political rights intended to protect all individuals' fundamental dignity and equality universally. In contrast, local human rights values in the Philippines are shaped by its historical, cultural, and economic contexts, heavily influenced by its colonial history, economic disparities, and cultural diversity.

## **Findings**

The findings of this study highlight the complex interplay between local and global human rights values in the Philippines. Through a comprehensive analysis of historical, cultural, and political factors, combined with insights from interviews with human rights advocates, several key themes emerged:

### **1. Influence of Historical Context on Local Human Rights Values**

The historical context of the Philippines, marked by centuries of colonization and periods of authoritarian rule, has significantly shaped local human rights values. The legacy of Spanish, American, and Japanese colonialism has left deep-rooted economic and social disparities that continue to influence contemporary human rights issues. The struggle for independence and subsequent authoritarian regimes have prioritized economic stability and development over abstract human rights principles. This historical backdrop contributes to a local perception of human rights that often differs from global norms, which emphasize civil and political rights.

### **2. The Role of Economic Disparities**

Economic disparities in the Philippines are crucial in shaping local human rights values. Many Filipinos prioritize economic development and stability over abstract human rights concerns, which is reflected in the widespread support for President Rodrigo Duterte's economic policies despite his administration's human rights violations. The emphasis on economic issues often overshadows the importance of civil and political rights, creating a gap between local and global human rights values. This prioritization is particularly evident among grassroots communities, who may view economic security as a more immediate and pressing concern than abstract human rights principles.

### **3. Cultural Relativism and Indigenous Practices**

Cultural relativism significantly influences human rights discourse in the Philippines. The country has a diverse population, including various indigenous communities with distinct cultural practices and beliefs. These cultural differences complicate the application of universal human rights principles. For instance, "bayanihan" (communal unity) emphasizes collective responsibility and communal living, which can sometimes conflict with individual privacy rights. Human rights advocates must navigate these cultural nuances to effectively promote human rights in a way that respects and incorporates local traditions and values.

#### **4. Perceptions of Human Rights Among Grassroots Communities**

Interviews with human rights advocates revealed that grassroots communities in the Philippines often have a different understanding of human rights than global standards. For many, human rights are perceived through immediate needs, such as access to food, shelter, and employment, rather than abstract legal principles. This perception is shaped by their daily struggles and the historical context of economic and political instability. Human rights advocates noted the importance of framing human rights in a way that addresses these immediate concerns to make them more relatable and relevant to grassroots communities.

#### **5. The Gap Between Local and Global Human Rights Values**

The gap between local and global human rights values in the Philippines is characterized by differing priorities and understandings of what constitutes human rights. While global human rights norms emphasize civil and political rights, local values often prioritize economic stability and community cohesion. This gap is further exacerbated by cultural relativism and the legacy of colonialism, which have shaped a unique local perspective on human rights. Human rights advocates highlighted the need to bridge this gap by contextualizing global human rights principles to fit local realities and addressing grassroots communities' specific needs and concerns.

#### **6. Strategies for Bridging the Gap**

Human rights advocates in the Philippines employ various strategies to bridge the gap between local and global human rights values.

##### **1. Vernacularization of Human Rights**

Vernacularization of Human Rights involves adapting global human rights principles to fit local contexts by considering cultural, historical, and economic factors. This process includes translating abstract principles into practical, relatable concepts that resonate with local communities.

##### **2. Engaging Directly with Communities**

Building relationships with grassroots communities to understand their specific needs and concerns. Advocates emphasize the importance of listening to and collaborating with local communities to develop effective advocacy strategies.

##### **3. Framing Human Rights in Practical Terms**

Addressing grassroots communities' immediate needs and practical concerns to make human rights more relatable. This includes focusing on issues such as access to basic necessities, economic opportunities, and community cohesion.

##### **4. Education and Awareness**

Raising awareness about human rights through education and community outreach. Advocates work to educate communities about their rights and the importance of human rights principles in improving their daily lives.

#### **Conclusion**

The findings of this study underscore the importance of understanding and addressing the unique historical, cultural, and economic contexts that shape local human rights values in the Philippines. By bridging the gap between local and global human rights values, advocates can develop more effective strategies to promote and protect human rights among grassroots communities. This requires a nuanced approach that respects local traditions and values while aligning with global

human rights standards. Through vernacularization, direct engagement, practical framing, and education, advocates can create a more inclusive and effective human rights discourse that resonates with diverse audiences in the Philippines.

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ศักยภาพผู้กระทำการผู้หญิงที่ทำงานภาคประชาสังคมเพื่อการพัฒนาท้องถิ่น:  
กรณีศึกษาประสบการณ์ผู้หญิงที่ทำงานในภาคประชาสังคมในจังหวัดพะเยา ประเทศไทย<sup>1</sup>  
Agencies of Women Working in the Civil Society for Local Development:  
Case Studies of Life Experience of Women Working in Civil Society Organizations  
in Phayao Province, Thailand

นายอริวัฒน์ ปิยะนันท์วงศ์<sup>2</sup>

Athiwat Piyananwong

**บทคัดย่อ**

งานวิจัยนี้ศึกษาเกี่ยวกับสภาวะ ลักษณะของศักยภาพผู้กระทำการ (Agency) ทำความเข้าใจประสบการณ์ชีวิตและปัจจัยทางสังคมและวัฒนธรรมที่ส่งผลกระทบต่อสภาวะหรือลักษณะของศักยภาพของผู้หญิงที่ทำงานในภาคประชาสังคมจังหวัดพะเยา เป็นงานวิจัยเชิงคุณภาพที่อยู่ในกรอบวิธีวิทยาว่าด้วยเรื่องปรากฏการณ์วิทยา (Phenomenology) ใช้วิธีการเก็บข้อมูลคือ 1) วิธีการศึกษาจากเอกสารตำราและงานวิจัยที่เกี่ยวข้อง และ 2) วิธีการเก็บข้อมูลแบบการสัมภาษณ์ ศึกษาผู้หญิงพะเยาที่เกี่ยวข้องกับงานพัฒนา ผลการวิจัยพบว่า ปัจจัยในระดับปัจเจกบุคคลที่ส่งเสริมหรือผลักดันให้ผู้หญิงมีศักยภาพเพื่อทำงานด้านการพัฒนาคือ การที่ผู้หญิงมีอำนาจ (Power) 4 แบบ ได้แก่ Power to, Power over, Power within and Power with ที่ช่วยส่งเสริมสภาวะการเป็นผู้กระทำการ (Agency) ให้ผู้หญิงเข้ามาทำงานในภาคประชาสังคมเพื่อพัฒนาชุมชนท้องถิ่น ปัจจัยทางสังคมและวัฒนธรรมที่ส่งผลกระทบต่อสภาวะหรือลักษณะของศักยภาพผู้กระทำการ (Agency) ของผู้หญิงคือ การได้รับการสนับสนุนจากครอบครัว ลูกและสามี การรับรู้ข้อมูลข่าวสารที่เป็นประโยชน์ต่อแนวคิดและแรงบันดาลใจจากภายนอก รวมถึงชุมชนท้องถิ่นมีกลไกที่หนุนเสริมบทบาทผู้หญิงสามารถสร้างพื้นที่การแลกเปลี่ยนเรียนรู้ การสร้างขวัญกำลังใจกันในกลุ่มองค์กรชุมชนและเครือข่ายของผู้หญิง

**คำสำคัญ** : การพัฒนา, ผู้หญิงกับงานพัฒนา, ผู้กระทำการ, กลุ่มผู้หญิงประชาสังคม

<sup>1</sup> บทความนี้เป็นส่วนหนึ่งของวิทยานิพนธ์ เรื่องการศึกษาวิเคราะห์ศักยภาพผู้กระทำการของผู้หญิงที่ทำงานภาคประชาสังคมเพื่อการพัฒนาท้องถิ่น: กรณีศึกษาประสบการณ์ผู้หญิงที่ทำงานในภาคประชาสังคมในจังหวัดพะเยา ประเทศไทย จำนวน 10 คน

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## ABSTRACT

This research studies the characteristics of agencies to understand the life experiences and social and cultural factors that influence the characteristics of women's agencies working in the Phayao province civil society. This research is qualitative research with a phenomenological methodological framework. The data collection method involves 1) documentary research, which studies from relevant documents and research papers, and 2) in-depth interviews with ten women who are congenital Phayao and are involved in the development work. The results showed that the factors at the individual level that promote or drive women's potential in the field of development work are the presence of four types of power of women, including 'Power to,' 'Power over,' 'Power within,' and 'Power with.' These powers help enhance women's agencies to work in civil society to develop their local communities. Additionally, social and cultural factors that impact the characteristics of women's agency include receiving support from family, children, and husbands, being exposed to beneficial information and news that inspire and motivate from external sources, as well as receiving valuable information and inspiration from external sources, including the local community, involves mechanisms that support the role of women can enable the creation of spaces for exchanging knowledge, fostering mutual encouragement within community organizations, and building networks among women.

**Keywords:** development, women and development work, agency, women civil society

## บทนำ

ความเสมอภาคเท่าเทียมทางเพศเป็นส่วนหนึ่งของสิทธิมนุษยชนและเป็นหลักการที่ยึดถือปฏิบัติในประเทศต่าง ๆ ทั่วโลก ถึงแม้ว่าบางประเทศจะให้การยอมรับ คุ่มครองเรื่องศักดิ์ศรีความเป็นมนุษย์และความเท่าเทียมทางเพศและบรรจวาระนี้ไว้ในกฎหมายรัฐธรรมนูญ แต่เราก็พบว่า ในบริบททางสังคมของประเทศเหล่านั้น ความเท่าเทียมและเสมอภาคทางเพศยังไม่ได้เป็นสิ่งที่ได้รับการยอมรับจากคนในสังคมเท่าที่ควร กระบวนการสร้างความเท่าเทียมและเสมอภาคทางเพศยังคงเผชิญกับความท้าทายและอุปสรรคปัญหาต่าง ๆ และยังคงอาศัยความร่วมมือจากหลายภาคส่วนเพื่อช่วยกันผลักดันให้ผู้หญิงมีบทบาททางเศรษฐกิจ สังคม การเมืองที่มากกว่าที่เป็นอยู่

ประเทศไทยก็เป็นอีกประเทศหนึ่งที่มีความโดดเด่นเรื่องการพัฒนาศักยภาพและบทบาทของผู้หญิงในกระบวนการตัดสินใจเชิงนโยบายในหลาย ๆ ด้าน มีการวางแผนพัฒนาสังคมเพื่อผลักดันให้ผู้หญิงมีบทบาทมากขึ้น มีการใช้พื้นที่สาธารณะในการขับเคลื่อนเรื่องความเท่าเทียม และตั้งคำถามเกี่ยวกับความสัมพันธ์เชิงอำนาจ ตลอดจนการต่อต้านการกดขี่ทางเพศ โดยกิจกรรมจากภาคส่วนต่าง ๆ ของสังคมเหล่านั้นต่างก็มุ่งไปที่เป้าหมายสูงสุดคือการแก้ไขกฎหมายที่เกี่ยวข้อง และการแก้ไขระบบการทำงานและกลไกของภาครัฐเพื่อส่งเสริมความก้าวหน้าของผู้หญิงอย่างยั่งยืน (อรุณี กาสยานนท์, 2546, น. 35) หากเราพิจารณาบทบาทของสตรีไทยต่อการพัฒนาท้องถิ่นนั้น เราจะพบว่าผู้หญิงไทยได้เข้ามามีบทบาทในการพัฒนามาเป็นเวลาหลายทศวรรษ ในบางจังหวัดในภาคเหนือและภาคใต้ของประเทศ ผู้หญิงรวมตัวกันเป็นองค์กรที่เข้ามาทำงานด้านการพัฒนาอย่างแข็งขันและการทำงานของผู้หญิงเหล่านั้นได้สร้างคุณูปการให้แก่เศรษฐกิจ สังคม การเมืองของจังหวัดเหล่านั้นเป็นอย่างมาก ปรากฏการณ์การทำงานเพื่อพัฒนาสังคมของผู้หญิงไทยนั้นไม่ใช่สิ่งที่เพิ่งเกิดขึ้นในช่วง 1-2 ทศวรรษที่ผ่านมา มันเกิดขึ้นและมีพัฒนาการขึ้นตามลำดับ

จังหวัดพะเยาก็เป็นอีกตัวอย่างหนึ่งที่มีความโดดเด่นในเรื่องการพัฒนาศักยภาพของผู้หญิงให้เข้ามามีบทบาทด้านการพัฒนา การพัฒนาสตรีในชนบทของจังหวัดพะเยานั้นเริ่มต้นมาตั้งแต่ปี 2505 มีการกำหนดนโยบายระดับจังหวัดให้สอดคล้องกับแผนพัฒนาเศรษฐกิจและสังคมแห่งชาติเพื่อพัฒนาคุณภาพชีวิตผู้หญิง มีการจัดตั้งและพัฒนาองค์กรสตรีในระดับต่าง ๆ เพื่อเป็นพัฒนาศักยภาพของผู้หญิงให้สามารถเป็นตัวแสดงที่สำคัญในการขับเคลื่อนและเป็นแกนนำในการคิด ตัดสินใจ วางแผนแก้ไขปัญหาในชนบท องค์กรสตรีของจังหวัดพะเยาเหล่านั้นได้เข้ามามีบทบาทสำคัญในการแก้ไขปัญหาสังคม ผู้นำสตรีจังหวัดพะเยายังได้ก้าวเข้าสู่ตำแหน่งผู้บริหารที่สำคัญของประเทศหลายคนอีกด้วย แต่เราพบว่า ตั้งแต่ปี 2540 เป็นต้นมา มีงานวิจัยน้อยมากที่ศึกษาเกี่ยวกับการเคลื่อนไหวทางสังคม และการมีส่วนร่วมทางการเมืองของผู้หญิงพะเยา กลุ่มผู้หญิงที่ทำงานในภาคประชาสังคมและ

ขบวนองค์กรชุมชนก็ยังไม่ได้เป็นกลุ่มที่มีผู้สนใจศึกษาเท่าที่ควร การศึกษาเกี่ยวกับผู้หญิงในจังหวัดพะเยายังคงจำกัดอยู่ในเรื่องการค้าประเวณี ตัวอย่างหนึ่งที่ถูกกล่าวและศึกษาอยู่บ่อยครั้งคือเรื่อง “สาวดอกคำใต้” ซึ่งเป็นอำเภอหนึ่งในจังหวัดพะเยาที่เป็นตำนานประวัติศาสตร์ของการค้าประเวณีมาถึงยุคปัจจุบัน ภาพของผู้หญิงพะเยาในฐานะผู้สร้างความเปลี่ยนแปลงทางสังคมและการพัฒนาท้องถิ่นยังคงไม่ได้รับการสื่อสารออกไปสู่สังคมวงกว้าง แม้ว่าในช่วง 20 ปีที่ผ่านมา ผู้หญิงพะเยาจำนวนไม่น้อยก็ได้ลุกขึ้นมาทำงานขับเคลื่อนงานทางสังคมอันมีคุณค่าและมีบทบาททัดเทียมผู้ชายในฐานะนักพัฒนาท้องถิ่น

### คำถามวิจัย

- 1) สภาวะ/ลักษณะของศักยภาพผู้กระทำการ (Agency) ของผู้หญิงที่ทำงานในภาคประชาสังคมเพื่อการพัฒนาท้องถิ่นในจังหวัดพะเยาเป็นอย่างไร
- 2) อะไรคือปัจจัยทางสังคมและวัฒนธรรมที่ส่งผลกระทบต่อสภาวะหรือลักษณะของศักยภาพผู้กระทำการ (Agency) ของผู้หญิงที่ทำงานในภาคประชาสังคมเพื่อการพัฒนาจังหวัดพะเยา

### วัตถุประสงค์การวิจัย

- 1) เพื่อทำความเข้าใจประสบการณ์ชีวิตของผู้หญิงพะเยาที่ทำงานในภาคประชาสังคมเพื่อการพัฒนาท้องถิ่น
- 2) เพื่อศึกษาสภาวะของศักยภาพผู้กระทำการของผู้หญิงที่ทำงานในภาคประชาสังคมเพื่อการพัฒนาท้องถิ่นในจังหวัดพะเยา
- 3) เพื่อทำความเข้าใจถึงปัจจัยทางสังคมและวัฒนธรรมที่ส่งผลกระทบต่อสภาวะหรือลักษณะของศักยภาพผู้กระทำการของผู้หญิงที่ทำงานในภาคประชาสังคมเพื่อการพัฒนาจังหวัดพะเยา

### วิธีดำเนินการวิจัย

งานวิจัยชิ้นนี้เป็นงานวิจัยเชิงคุณภาพ ที่อยู่ในกรอบวิธีวิทยาว่าด้วยเรื่องปรากฏการณ์วิทยา (Phenomenology) และได้ใช้วิธีการดำเนินการวิจัยที่คล้ายกับงานวิจัยเชิงคุณภาพอื่น ๆ โดยผู้วิจัยใช้วิธีการเก็บข้อมูลคือ 1) วิธีการศึกษาจากเอกสารตำราและงานวิจัยที่เกี่ยวข้อง 2) วิธีการเก็บข้อมูลแบบการสัมภาษณ์ เป็นการสนทนาโดยมีจุดมุ่งหมายเพื่อหาคำตอบอย่างละเอียดถี่ถ้วน

มีการตรวจสอบและวิเคราะห์ข้อมูล 2 แบบ แบบแรก คือ การวิเคราะห์ข้อมูลแบบอุปนัยและการวิเคราะห์แบบจำแนกชนิดข้อมูล โดยการเขียนที่แยกเป็น 3 ส่วน โดยส่วนแรกเริ่มจากการเขียน



เรื่องเล่าชุดประสบการณ์ ปรากฏการณ์ชีวิตของผู้ให้ข้อมูล ที่ทำให้เห็นถึงปรากฏการณ์ เหตุการณ์ โดยรวม และส่วนที่ 2 คือการกลั่นเอาสาระหรือเนื้อหาสำคัญจาก “ข้อมูลดิบ” ที่อยู่ในรูปของ การพรรณนาหรือเรื่องเล่าที่ผู้วิจัยได้รวบรวมมาจากการเก็บข้อมูลภาคสนาม และส่วนสุดท้าย คือ การสรุปข้อมูลและนำมาวิเคราะห์สังเคราะห์ตามแนวคิดทฤษฎี แบบที่สอง คือ การตีความข้อมูล เชิงปรากฏการณ์วิทยา การตีความที่วางอยู่บนฐานปรากฏการณ์วิทยา การหาความจริงวางอยู่บนฐานที่ เรียกว่า “ประสบการณ์” และอรรถปริวรรตศาสตร์ (Hermeneutics) การตีความและการทำ ความเข้าใจตัวบท ผ่านทางกระบวนการเชิงประจักษ์ เพื่อทำความเข้าใจปรากฏการณ์หรือเหตุการณ์หนึ่ง จากมุมมองของผู้หญิงที่มีประสบการณ์นั้น ๆ

## บททวนวรรณกรรม

### ผู้หญิงกับงานพัฒนาการต่อสู้และการขับเคลื่อนทางสังคม

ผู้หญิงและผู้ชายในพื้นที่สามจังหวัดชายแดนใต้สามารถมีส่วนร่วมในการสร้างสันติภาพได้ ผู้หญิงเป็นที่ยอมรับกันโดยทั่วไปในพื้นที่และปรากฏเด่นชัดว่ามีบทบาทอย่างต่อเนื่องคือผู้ทำหน้าที่ใน กระบวนการสร้างสันติสุข ในสถานการณ์ความรุนแรง โดยที่ผู้หญิงมุสลิมซึ่งได้รับอนุญาตตามหลักการ ศาสนา ให้ทำหน้าที่ขัดเกลา เตือนสติและเหนี่ยวรั้งให้ผู้ชายหรือเด็กชายให้กลับมาสู่คุณธรรม การ สร้างสันติภาพในระยะยาวให้แก่พื้นที่ซึ่งเป็นบ้านเกิดของพวกผู้หญิง (รัตญา กอบศิริกาญจน์, มปป) ผู้หญิงที่เป็นตัวแทนในการเจรจาและกระบวนการสันติภาพอย่างเป็นทางการทั้งในฐานะผู้ไกล่เกลี่ย ในฐานะตัวแทนของคณะผู้ร่วมเจรจา รวมถึงฐานะสักขีพยาน หรือผู้สังเกตการณ์ การเป็นที่ปรึกษา เรื่องเพศสภาพ การทำงานของผู้หญิงในกระบวนการสันติภาพแบบไม่เป็นทางการ (ดวงหทัย บุรณ เจริญกิจ, 2561)

บทบาทผู้หญิงในครอบครัว ชุมชน และวัฒนธรรม ที่นำเสนอบทบาทที่สำคัญพื้นฐานอยู่ สาม เรื่องคือ บทบาทการทำหน้าที่เป็นแม่ เป็นเมีย และเป็นหมอประจำบ้าน นั่นคือการดูแลครอบครัวใน เรื่องของอาหารการกินสุขภาพอนามัย การหารายได้ให้ครอบครัว ยังมีบทบาทของผู้หญิงที่เกิดขึ้นโดย การเป็นผู้นำธรรมชาติ การเป็นที่ปรึกษาการไกล่เกลี่ยปัญหาและความขัดแย้งระหว่างครอบครัวและ ปัญหาในชุมชน ผู้หญิงมีบทบาทและเป็นแรงงานสำคัญต่อการจัดเตรียมงานประเพณีต่าง ๆ ในชุมชน (สมภาร คินดี และ ชีระพงศ์ โพธิ์มัน, 2555) ครอบครัวนั้นเป็นหน่วยทางสังคมที่ผู้หญิงมีบทบาทมาก ที่สุดในการทำหน้าที่เป็นแม่บ้าน การดูแลงานบ้าน ดูแลลูก สามีและญาติ ๆ และ การสร้าง ความสัมพันธ์กับญาติมิตรและเพื่อนบ้าน อีกทั้งผู้หญิงมีบทบาทที่สำคัญในการอนุรักษ์หลายด้าน ทั้ง

การเป็นผู้นำชุมชนแบบทางการและไม่เป็นทางการ ผู้นำทางจิตวิญญาณ (ธีระพงศ์ โพธิ์มัน และคณะ, 2560)

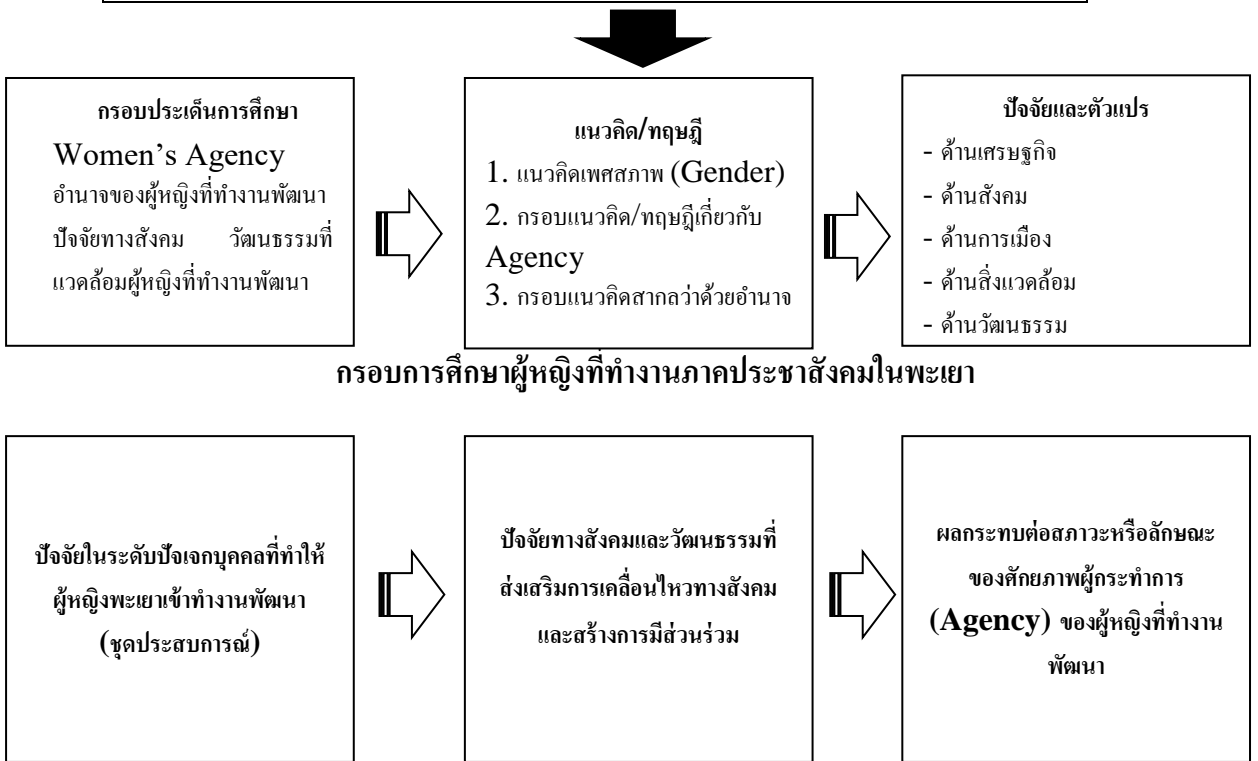
การสร้างภาพลักษณ์ให้กับตัวเองเป็นสิ่งสำคัญต่อบทบาท ผู้หญิงจึงจำเป็นต้องพัฒนาตัวเอง อยู่เสมอ ผู้หญิงเก่งกว่าเป็นผู้มีบุคลิกภาพที่ดี มีภาวะความเป็นผู้นำ เป็นผู้มีความรู้ความสามารถ เชี่ยวชาญในอาชีพของตน และมีวิสัยทัศน์ มีอัตลักษณ์ด้านการทำงานและการแต่งกายที่เสริมบุคลิกภาพ เป็นผู้ริเริ่มมีความคิดสร้างสรรค์ เป็นตัวของตัวเองและมีการวางตัวให้เหมาะสมกับกาลเทศะ สร้างตัวตนสู่ความสำเร็จ สร้างวัฒนธรรมองค์กร ชอบการเรียนรู้ระบบอย่างต่อเนื่อง (วิจิศา ไชยสินธุ์, 2550) ผู้หญิงทำหน้าที่เป็นผู้นำต้องมีอัตลักษณ์ องค์ความรู้เพื่อพัฒนาศักยภาพในการแสดงความคิดเห็น การสร้างเครือข่ายทั้งเป็นทางการและไม่เป็นทางการ รวมถึงความสามารถที่จะเอาชนะความรู้สึกความไม่มั่นคง การดูแลสุขภาพจิตให้ดี การดำเนินการที่แปลกใหม่และสร้างสรรค์ ซึ่งเห็นได้จากพลังที่ผู้หญิงมี และสิ่งที่ต้องนำมาใช้ให้ดีขึ้น (Karen Delfau, 2020)

### กรอบแนวคิดการศึกษา

เพศสภาพ (Gender) เป็นคุณลักษณะที่ประกอบสร้างทางกายภาพและสร้างบทบาทหน้าที่ของกายภาพจากสภาพทางสังคมและวัฒนธรรม ซึ่งได้ถูกกำหนดความเป็นผู้หญิงหรือผู้ชายรวมถึงความเป็นเพศอื่น ๆ ซึ่งเกี่ยวข้องกับการตีความของเพศที่มองจากกายภาพที่เป็นคุณสมบัติติดตัวมนุษย์มาตั้งแต่กำเนิด ลักษณะของเพศสภาพทางกายภาพไม่มีความแตกต่างกันมากในแต่ละสังคม เรียกว่ามีความเป็นสากล แต่เพศสภาพนั้นมีความแตกต่างกันตามบริบทสภาพแวดล้อมทางสังคมและวัฒนธรรมที่หลากหลาย

การศึกษาวิจัยเรื่องการเคลื่อนไหวทางสังคมกับการมีส่วนร่วมทางการเมืองของผู้หญิงที่ทำงานในภาคประชาสังคมเขตพื้นที่จังหวัดพะเยา โดยมีแนวคิดทฤษฎีที่ผู้วิจัยจะใช้เป็นกรอบในการวิเคราะห์หลักสำหรับการศึกษานี้ที่ใช้นแนวคิดเรื่องเพศสภาพ (Gender) ที่นำไปสู่การวิเคราะห์ Women's Agency และสิ่งที่ทำให้ Agency แข็งแกร่งคือ Power จึงมีแนวคิดเรื่องอำนาจ ซึ่งเป็นทฤษฎีที่สร้างกระแสหลักให้เห็นเหตุการณ์และปรากฏการณ์ที่เกิดขึ้นในสังคมที่ผู้หญิงมีสถานะด้อยค่ากว่าบนแนวคิดความเป็นใหญ่ของชาย (Men Centered Perspectives) ประกอบกับการมองผู้หญิงในแนวคิดสตรีนิยม ที่เป็นกรอบแนวคิดของการวิจัย ผู้วิจัยขอเสนอแนวคิดที่ได้นำมาใช้ประกอบการศึกษาพอสังเขปดังนี้ แนวความคิดเกี่ยวกับ Agency แนวคิดสากลว่าด้วยอำนาจ และแนวคิด/ทฤษฎีเกี่ยวกับผู้หญิง

**Gender >> Power >> Agency >> Participation in development**



**ข้อค้นพบงานวิจัย**

1) ปัจจัยในระดับปัจเจกบุคคลที่ส่งเสริมหรือผลักดันผู้หญิงพะเยาทั้ง 10 คน

ปัจจัยที่มีอันดับแรก คือ Power to ศักยภาพในตนเอง

ผู้หญิงส่วนใหญ่ผลักดันตัวเองผ่านเวทีหรือการประชุมของกลุ่มองค์กรชุมชนในแต่ละระดับ ที่มีการเลือก นำเสนอตัวแทนหรือแกนนำ ผู้นำที่มีจิตอาสา มีความเสียสละ และมีการรับรองสนับสนุนจากกลุ่มต่าง ๆ รวมถึงการยอมรับและรับรองจากผู้นำชุมชน (ผู้ใหญ่บ้าน กำนัน) ซึ่งผู้หญิงดังกล่าวมีศักยภาพในตนเองที่เป็นที่ยอมรับในสังคม เป็นคนมีสติปัญญาดี มีจิตอาสา มีบุคลิกภาพที่ดี เก่งเรื่อง การจัดการ หรือมีการศึกษาที่ดี มีต้นทุนทางสังคม มีความสัมพันธ์ที่ดีกับตัวแสดงอื่น ๆ ในสังคมของเขา มีฐานะทางเศรษฐกิจที่ดี สิ่งเหล่านี้ทำให้เขาสามารถเข้ามาทำงานด้านนี้ได้ และส่วนใหญ่จะเป็น ผู้ริเริ่มในการตั้งกลุ่มอาชีพ หรือการรวมกลุ่มทำกิจกรรมในชุมชน และถูกส่งเสริมเรื่อยมา

กล่าวคือผู้หญิงที่จะขึ้นเป็นผู้นำต้องผ่านการพัฒนาตัวเองให้เก่งมีศักยภาพ เป็นผู้ริเริ่ม การกระทำการบางอย่าง สูการยอมรับในผู้หญิงด้วยกันจึงจะสามารถก้าวไปเป็นผู้นำชุมชนหรือแกนนำในระดับต่าง ๆ ได้

**ปัจจัยที่สองซึ่งเป็นปัจจัยหนุน คือ Power within พลังภายใน เรื่องความแกร่งข้างในตัวตน**

พบว่า ผู้หญิงที่ทำงานภาคประชาสังคมนั้นต้องมีความอดทน มีสติต่อการแก้ไขปัญหาต่าง ๆ ที่เผชิญ การมองอะไรด้านบวก บางคนอาจจะเป็นคนยากจน แต่มีความคิดเชิงบวก ก็สามารถช่วยให้สามารถก้าวข้ามปัญหาได้ หรือการมีแรงบันดาลใจต่าง ๆ เป็นนักต่อสู้ไม่ยอมแพ้ง่าย ๆ จึงทำให้ผู้หญิงเหล่านี้เป็นที่ยอมรับและมีบทบาทในการเป็นผู้นำสูง โดยเฉพาะเรื่องความเชื่อความศรัทธาในตัวเอง นั้นผู้หญิงส่วนใหญ่คิดว่าเป็นสิ่งที่ถูกพัฒนาได้ เมื่อถูกทำลายลงก็สามารถสร้างขึ้นใหม่ได้ และสิ่งที่ผู้หญิงเหล่านี้มีเหมือนกันคือความเมตตา ความไม่สยบยอม ความกล้าหาญ ความชอบธรรม ความรักในชีวิตตัวเอง คุณค่าในตัวเอง ความฝัน หรือแม้แต่แรงบันดาลใจ เป็นสิ่งที่ผู้หญิงเอามาใช้เพื่อต่อสู้กับความไม่เป็นธรรม เผชิญกับความรุนแรง เผชิญกับความกลัว เผชิญกับความโกรธแค้น แล้วตอบโต้ด้วยสันติวิธีคือการมองข้าม

**และปัจจัยสุดท้าย Power over คือ ความสามารถในการทำให้ผู้อื่นทำอะไรที่เราต้องการได้ ที่มีร่วมกับ Power with คือ อำนาจที่เขามีร่วมกับ actor อื่น ๆ ในสังคม**

Power over เป็นอำนาจที่มาในอันดับสุดท้ายของการทำงาน ซึ่งส่วนใหญ่ใช้ระยะเวลาทำงานที่ยาวนานต้องพิสูจน์ตัวเองในบทบาทต่าง ๆ ทางสังคม การลงทุนลงมือทำงานที่ตนเชื่อ หรือการผลักดันข้อเสนอโครงการและนโยบายต่าง ๆ ที่จะทำให้ผู้คนหลายฝ่ายยอมรับ และส่วนใหญ่ที่ผู้หญิงที่เป็นแกนนำใช้ในการสั่งการคือการใช้ตำแหน่งในการโน้มน้าวให้ทุกคนเห็นด้วย ซึ่งผู้หญิงมองว่าถ้าไม่มีตำแหน่งจะไม่สามารถทำให้ผู้อื่นทำตามหรือคล้อยตามในสิ่งที่ตนตั้งเป้าหมายหรือวางแผนไว้ให้เป็นไปได้ตามแผน

ส่วน Power with นั้นมาจากการส่งเสริมของคนรอบข้าง สถานการณ์ที่เอื้อต่อการทำงาน และการเป็นผู้นำ โดยเฉพาะหน่วยงานต่าง ๆ ของภาครัฐที่ส่งเสริมและสร้างพื้นที่เปิดโอกาสให้ผู้หญิงมีพื้นที่การแสดงตัวตน การสร้างผลงานการทำงานผ่านเวที ผ่านที่ประชุม ผ่านการทำกิจกรรมต่าง ๆ ของหน่วยงานภาครัฐ เช่น การเป็นจิตอาสา การเป็นปราชญ์ชุมชน การเป็นวิทยากร และการได้รับให้เป็นกรรมการหรือผู้ทรงคุณวุฒิต่าง ๆ เป็นต้น

กล่าวคือการทำงานที่ผู้หญิงที่ทำงานในภาคประชาสังคมกลุ่มนี้จะมีอำนาจในการกระทำการบางอย่างเพื่อตอบสนองแนวคิดของตนนั้นจะต้องมีพลังมีอำนาจและผลักดันตนเองเข้าสู่กลไกระดับชุมชนท้องถิ่นที่สร้างพื้นที่ให้ผู้หญิงเข้าไปทำงาน สะสมประสบการณ์เรียนรู้และพัฒนาตนเองสู่การสร้างเชื่อมั่นสร้างความศรัทธาของทีมงานและยกระดับตนเองจากผู้ตามสู่ผู้นำแห่งการเปลี่ยนแปลง สรุปได้ว่าปัจจัยในระดับปัจเจกบุคคลที่ส่งเสริมหรือผลักดันให้ผู้หญิงพะเยา มี

ศักยภาพผู้กระทำการเพื่อทำงานด้านการพัฒนาจังหวัดพะเยา คือ Power 4 แบบ ประกอบด้วย Power to, Power over, Power within and Power with ที่ช่วยส่งเสริม agency ให้ผู้หญิงเข้ามาทำงานในภาคประชาสังคมเพื่อพัฒนาชุมชนท้องถิ่น

## 2) ปัจจัยทางสังคมและวัฒนธรรมที่ส่งผลกระทบต่อสถานะหรือลักษณะของศักยภาพของผู้หญิงที่ทำงานในภาคประชาสังคม

### ปัจจัยทางสังคม

การได้รับการสนับสนุนจากครอบครัว ลูกและสามี การรับรู้ข้อมูลข่าวสารที่เป็นประโยชน์ต่อแนวคิดและแรงบันดาลใจจากภายนอก รวมถึงชุมชนท้องถิ่นมีกลไกภาคประชาสังคมที่หนุนเสริมบทบาทผู้หญิง สามารถสร้างพื้นที่การแลกเปลี่ยนเรียนรู้ การสร้างขวัญกำลังใจกันในกลุ่มองค์กรชุมชน และเครือข่ายของผู้หญิง การเคลื่อนไหวทางสังคมระดับประเทศที่นำไปสู่ระดับจังหวัด เป็นปัจจัยสำคัญที่ทำให้เกิดการพัฒนาตัวเองของผู้หญิงพะเยาที่เข้ามาเป็นผู้นำหรือมีบทบาททางการเมืองในการพัฒนาจังหวัดพะเยา ปัจจุบันสตรีมีบทบาทในกิจกรรมทางสังคมที่เพิ่มขึ้นจากอดีต โดยมีสาเหตุหลัก คือ การได้รับ การชักชวนจากเพื่อนบ้าน การเป็นสมาชิกกลุ่ม สถานภาพทางสังคม และลักษณะความสัมพันธ์ของคนในชุมชน และเห็นว่าสตรีมีบทบาทในกิจกรรมทางเศรษฐกิจเพิ่มขึ้นจากอดีต สาเหตุหลักคือ เพื่อหารายได้ ค่าครองชีพที่สูงขึ้น และมีช่องทางการประกอบอาชีพมากขึ้น

### ปัจจัยทางวัฒนธรรม

จากการศึกษามุมมองของผู้หญิงกับงานพัฒนาการต่อสู้และการขับเคลื่อนทางสังคมพบว่า ปัจจัยทางวัฒนธรรมเป็นอีกหนึ่งประเด็นที่มีความสำคัญต่อการมองถึงบทบาทรูปแบบการมีส่วนร่วมของผู้หญิงในกระบวนการพัฒนา ที่ทำให้เห็นถึงผู้หญิงที่เป็นตัวแทนในการขับเคลื่อนการพัฒนา เศรษฐกิจ สังคมและการเมือง ที่สะท้อนให้เห็นว่าวัฒนธรรมนั้นเป็นปัจจัยสำคัญต่อการเข้ามาทำงานของผู้หญิง เช่น การมองว่าผู้หญิงเป็นแม่บ้าน ผู้หญิงไม่สามารถทำงานหนักได้ ไม่สามารถรับแรงกดดันหรือแรงกระทบจากปัญหาต่าง ๆ ได้ดีเท่ากับผู้ชาย ในขณะที่ประชุมผู้ชายมักเสียงดังกว่าผู้หญิง การเลือกตั้งระดับท้องถิ่นในหลายพื้นที่ผู้ชายก็มักจะได้เป็นผู้นำอยู่เสมอ วัฒนธรรมทางการเมืองที่ส่งผลถึงการมีส่วนร่วมทางการเมือง แสดงให้เห็นความก้าวหน้าของการมีส่วนร่วมทางการเมืองของผู้หญิงนั้นมีน้อยมาก ทำให้เห็นว่าการที่ผู้หญิงเข้ามามีส่วนร่วมและบทบาททางสังคมและการเมืองนั้นเป็นแรงกระตุ้นที่ได้ทำให้ผู้หญิงมีอำนาจขยายไปกว้างมากขึ้น โดยมีสาเหตุที่สำคัญที่ผู้หญิงเข้าร่วมต่อสู้คือการมองเห็นผลกระทบในอนาคตที่จะเกิดขึ้น และมีนัยสำคัญทางสถิติผู้หญิงที่มีความสัมพันธ์มีตำแหน่งหน้าที่และความรับผิดชอบในชุมชนนั้นจะมีส่วนร่วมมากกว่าผู้หญิงที่ไม่มีตำแหน่งหรือความสัมพันธ์ในชุมชน ความสัมพันธ์ในชุมชนเป็นปัจจัยทางสังคมที่ทำให้ผู้หญิงมีบทบาทในกิจกรรม

ทางเศรษฐกิจโดยรวม ทำให้มีโอกาสที่จะแลกเปลี่ยนความคิดเห็นและแสดงความเป็นเจ้าของร่วมหรือ การเข้าไปมีส่วนได้เสียในงานพัฒนาเชิงพื้นที่

## บทสรุป

ผู้วิจัยได้นำเสนอข้อค้นพบที่ได้จากการศึกษาผ่านผู้หญิงที่ทำงานในภาคประชาสังคม ที่สะท้อนถึงเรื่องของการพัฒนาผู้หญิงอยู่ภายใต้สถานการณ์และกระแสความเท่าเทียมกันระหว่างเพศ มักเผชิญกับมุมมองที่ถูกมองจากสายตาของคนในสังคมท่ามกลางมายาคติที่สังคมมีต่อแนวคิดสตรีนิยม มีปัจจัยประเด็นปัญหาและอุปสรรคต่าง ๆ ตามบริบททางสังคม เพราะกระแสการพัฒนาสตรีได้มีลักษณะของความเป็นพลวัต (Dynamic) เสมือนว่าเรื่องการพัฒนาสตรีหรือผู้หญิงนั้นจำเป็นต้องได้รับการยอมรับจากสังคม กลุ่มผู้หญิงพะเยาทำให้เห็นถึงความสำคัญของการส่งเสริมการสร้างพลังให้กับผู้หญิงที่ทำงาน จิตอาสา ทำงานพัฒนา โดยการใช้พื้นที่สาธารณะในการขับเคลื่อนงานและตั้งคำถามเกี่ยวกับความสัมพันธ์เชิงอำนาจผ่านเวทีทางสังคมของเครือข่ายผู้ขับเคลื่อนงานสังคมที่ต้องการให้เห็นภาพของการพัฒนาและการสร้างความเชื่อมั่นในผู้หญิงที่จะนำไปสู่การเปลี่ยนแปลง การสร้างวาระทางการเมืองที่มีเป้าหมายสูงสุดโดยเฉพาะอย่างยิ่งในเรื่องวัฒนธรรมและกระบวนการสร้างความเป็นผู้นำหญิงในชุมชนท้องถิ่น เป็นแนวทางที่นำไปสู่การสื่อสารและการรับรู้ของผู้หญิงในระดับต่าง ๆ และประชาชนในประเทศที่เคลื่อนไหวในการใช้สิทธิและเสรีภาพ การมีส่วนร่วม การแสดงออก ในการทำงานที่เกี่ยวข้องกับการพัฒนาผู้หญิงที่เข้ามาเป็นผู้นำหรือมีบทบาททางการเมืองในการพัฒนาเชิงพื้นที่ นำไปสู่การเสริมสร้างพลเมืองประชาธิปไตยในสังคมและความเสมอภาคทางเพศของผู้หญิง

การสร้างอำนาจและพลัง (Power) เป็นสิ่งสำคัญที่ช่วยส่งเสริม Agency ต่อกลุ่มผู้หญิงที่จะเข้ามาทำงานพัฒนา ที่เป็นความท้าทายของการสร้างความเป็นธรรมทางเพศในอนาคต การก้าวข้ามเรื่องของบทบาทและอำนาจในการทำงานในความสามารถของผู้หญิงและผู้ชาย รวมถึงการสร้าง ความเข้าใจและยอมรับถึงสิทธิมนุษยชนของสตรี ด้วยการรื้อถอนมายาคติอันเกิดจากวัฒนธรรม การประกอบสร้าง เพศสภาพของสังคม การที่ผู้หญิงคนหนึ่งได้ปลดแอกตัวเองออกจากความสัมพันธ์ทางอำนาจทางการเมืองและเศรษฐกิจที่เบียดผู้หญิงออกจาก การเข้าถึงอำนาจตัดสินใจที่จะกำหนดชะตากรรมตนเอง

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## Abstract

The public participation in mobilizing the Prevention and Suppression of Torture and Enforced Disappearance Act B.E.2565 has been limited in several aspects. Although, the constitution grants people the rights to propose laws, difficulties and challenges arise when laws related to human rights protection especially the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565. This research aims to examine difficulties and challenges of the public participation that occur in mobilizing the enactment of the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565. The research methodology applies participation theory to establish a conceptual framework and conducts data analysis through the qualitative research method to collect preliminary document and secondary document, the research methodology has shown the considerable effort through the method and several form of public participation to pass the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565, regardless of the difficulties and pressure from government agencies that attempt to prevent the change due to the loss of authority of any group of interest.

**Keywords:** Challenges/ Public participation/ Prevention and Suppression of Torture and Enforced Disappearance Act B.E.2565

## บทนำ

แนวคิดและหลักประกันสิทธิของภาคประชาชนในการมีส่วนร่วมเสนอกฎหมายในประเทศไทยปรากฏชัดในรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2540 โดยกำหนดให้มีบทบัญญัติว่าด้วยเรื่องสิทธิเสรีภาพ และการมีส่วนร่วมทางการเมืองของประชาชน เช่นเดียวกับรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2550 และยังคงมีหลักประกันดังกล่าวในรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2560 ซึ่งเป็นกฎหมายสูงสุดได้รับรองสิทธิและการมีส่วนร่วมของประชาชนที่จะมีส่วนร่วมแสดงความคิดเห็นในกระบวนการออกกฎหมายในทุกขั้นตอน แต่หากพิจารณาผลที่ได้จากการบังคับใช้กระบวนการที่ระบุในรัฐธรรมนูญจะไม่เป็นที่พอใจเท่าที่ควร เพราะร่างกฎหมายที่เสนอโดยประชาชนที่ผ่านมานั้นมีจำนวนกว่า 48 ฉบับ มีเพียง 8 ฉบับเท่านั้น ที่ได้รับการเห็นชอบให้บังคับใช้เป็นกฎหมาย โดยส่วนใหญ่แทบจะถูกปิดกั้นจากการพิจารณาของสภาผู้แทนราษฎร โดยไม่ได้สนใจเจตนารมณ์หรือความต้องการของประชาชนโดยแท้จริง เฉกเช่นเดียวกับ พระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้นुकคสสุญหาย พ.ศ.2565 ที่ดำเนินไปอย่างมี

ข้อจำกัดหลายประการ แม้ว่ารัฐธรรมนูญจะให้สิทธิประชาชนในการเสนอกฎหมาย แต่ความยากลำบาก และความท้าทายเกิดขึ้นเมื่อมีการเสนอกฎหมาย หรือร่างกฎหมายที่เกี่ยวข้องกับการคุ้มครองสิทธิมนุษยชน

กระทั่งเหตุการณ์การซ้อมทรมานผู้ต้องหาโดยเจ้าหน้าที่รัฐที่ปรากฏเป็นข่าวสะเทือนสังคม เมื่อมีผู้ต้องหาที่ถูกจับกุมและถูกซ้อมทรมานจนเสียชีวิตภายหลังการถูกจับกุมเมื่อวันที่ 4 มิถุนายน 2565 และถูกนำมาสอบสวน โดยมี พ.ต.อ.ฐิติสรณ์ อุทชนผล หรืออดีตผู้กำกับโจ้ อดีต ผกก.สภ.เมือง นครสวรรค์ พร้อมพวกรวม 7 คน เป็นผู้สอบสวน หากแต่ใช้วิธีการซ้อมทรมานเพื่อบีบบังคับให้ผู้ถูกกล่าวหาให้ข้อมูลเกี่ยวกับยาเสพติด โดยใช้ถุงพลาสติกสีดำซ้อนกัน 6 ชั้น คลุมศีรษะ “มาวิน” ผู้ต้องหา เป็นเหตุให้ผู้ต้องหาเสียชีวิตในเวลาต่อมา ซึ่งเป็นประเด็นที่กระตุ้นให้เกิดความสนใจและการเคลื่อนไหวของภาคประชาชนที่จะเข้าไปมีส่วนร่วมกันผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานฯ ดังนั้น การศึกษาพัฒนาการและความท้าทายในการมีส่วนร่วมของภาคประชาชนต่อการผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้นुकคคสูญหาย พ.ศ. 2565 จึงเป็นสิ่งสำคัญเพื่อที่จะทำให้เห็นอุปสรรคและข้อท้าทายในการมีส่วนร่วมของภาคประชาชนที่จะเป็นการสนับสนุนให้ฝ่ายที่เกี่ยวข้องและหน่วยงานที่เกี่ยวข้องออกกฎหมายที่มุ่งปกป้องสิทธิของประชาชน และสามารถหาวิธีในการปรับปรุงกระบวนการ โดยการมีส่วนร่วมของภาคประชาชนในการเสนอกฎหมายให้มีประสิทธิภาพ

### **คำถามงานวิจัย**

1. อุปสรรค และข้อท้าทายในการมีส่วนร่วมของภาคประชาชนต่อการผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้นुकคคสูญหาย พ.ศ.2565 เป็นอย่างไร

### **วัตถุประสงค์การวิจัย**

1. เพื่อศึกษาอุปสรรค และข้อท้าทายในการมีส่วนร่วมของภาคประชาชนต่อการผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้นुकคคสูญหาย พ.ศ.2565

### **ทบทวนวรรณกรรม**

#### **การส่งเสริมการมีส่วนร่วมของภาคประชาชน**

การมีส่วนร่วมของภาคประชาชน หน่วยงานภาครัฐเริ่มยอมรับว่าภาคประชาชนมีความรู้ ความเข้าใจและทักษะการจัดการในเรื่องที่จำเป็นต่อการตัดสินใจ และการเข้าร่วมดำเนินงานในโครงการ/กิจกรรม หรือประเด็นสาธารณะ ได้ดีขึ้น หน่วยงานภาครัฐยังเล็งเห็นถึงประโยชน์ที่ได้รับจากการส่งเสริมบทบาทของภาคประชาชนในการร่วมดำเนินกิจการ โครงการ/ กิจกรรม และประเด็นสาธารณะ จากการให้คำปรึกษาหารือและแลกเปลี่ยนข้อมูลข้อเท็จจริงเกี่ยวกับสภาพปัญหาและความต้องการของ

ประชาชน ซึ่งช่วยให้หน่วยงานภาครัฐสามารถแสวงหาแนวทางการแก้ไขหรือปรับปรุงพัฒนารูปแบบ การดำเนินงานให้สอดคล้องกับบริบทของปัญหาในแต่ละเรื่องได้ดียิ่งขึ้น นอกจากนี้การมีบทบาทร่วม ในกระบวนการดำเนินงานของภาคประชาชนมีความสำคัญต่อการพัฒนาคุณภาพชีวิตและสังคม เนื่องจากการมีบทบาทร่วมในการดำเนินงาน โครงการ/ กิจกรรมใดก็ตามยังเป็นเครื่องมือสำคัญประการ หนึ่งในการยกระดับคุณภาพชีวิต ดังนั้นภาครัฐจึงต้องทำให้เสียงของประชาชนปรากฏอยู่ในทุกขั้นตอน ของกระบวนการพัฒนาของรัฐ โดยเฉพาะเสียงจากกลุ่มผู้ได้รับความไม่เป็นธรรม เช่น งานวิจัยของ (ธีร พันธุ์ ใจมั่น ,2542) ที่ได้ศึกษาเกี่ยวกับการส่งเสริมการมีส่วนร่วมของภาคประชาชน ในการผลักดัน นโยบายเกี่ยวกับร่างพระราชบัญญัติป่าชุมชน งานวิจัยดังกล่าวพบว่ารัฐเล็งเห็นว่าควรเปิดโอกาสให้ ประชาชนมีส่วนร่วมในการจัดการทรัพยากรป่า ด้วยเหตุที่ภาครัฐตระหนักถึงข้อจำกัดทางแรงงานและ งบประมาณ จึงดำเนินการให้ประชาชนเข้ามามีส่วนร่วมในการจัดการทรัพยากรป่าอย่างจริงจัง ด้วยการ ดำเนินการผลักดันให้เกิดพระราชบัญญัติป่าชุมชนด้วยวิธีการ คือ 1) การผลักดันตามกระบวนการตรา พระราชบัญญัติ 2) การสร้างการรับรู้ของสาธารณะ 3) การเข้าสู่ผู้มีอำนาจการตัดสินใจ 4) การผลักดัน ด้วยข้อมูล 5) การแสวงหาแนวร่วม 6) การใช้ทฤษฎี และ 7) การติดตามสถานการณ์ นอกจากนี้รูปแบบ และขั้นตอนการมีส่วนร่วมยังปรากฏในการขับเคลื่อนร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิต งานวิจัย ของ (บารมี พานิช, 2559) ที่พบว่า การขับเคลื่อนร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิตโดยมีวิธีการที่ ส่งเสริมให้ประชาชนเข้าไปมีส่วนร่วม คือ 1) การจัดตั้งกลุ่มองค์กร 2) การทำกิจกรรมแบบเป็นทางการ / ไม่เป็นทางการ 3) การร่วมกันจัดทำร่างพระราชบัญญัติและการเข้าชื่อเพื่อยื่นเสนอ 3) เกิดร่าง พระราชบัญญัติฉบับประชาชน และฉบับกรมคุ้มครองสิทธิและเสรีภาพ 4) มีการนำร่างพระราชบัญญัติ เข้าสู่การพิจารณาในรัฐสภาโดยคณะกรรมการกฤษฎีกาหมายสมาชิกสภาผู้แทนราษฎร และ 5) กฎหมาย ได้รับการพิจารณา เป็นการปรับเปลี่ยนข้อกฎหมายที่คำนึงถึงประ โยชน์ต่อประชาชนโดยผ่าน กระบวนการทางสังคมและตามกระบวนการตราพระราชบัญญัติ

### **การมีส่วนร่วมในการผลักดันกฎหมายโดยประชาชน**

การมีส่วนร่วมของประชาชนในประเทศไทยเมื่อศึกษาย้อนกลับไปในประวัติศาสตร์ก็จะ พบว่าการพูดถึงกันอย่างกว้างขวาง แต่มักจะพบอยู่ในมิติเดียวคือการมีส่วนร่วมในการออกไปเลือกตั้ง เพื่อเลือกสมาชิกสภาผู้แทนราษฎร สำหรับการมีส่วนร่วมของประชาชนในแง่ของการรับฟังความ คิดเห็น และร่วมตัดสินใจในการดำเนินงานต่าง ๆ ของหน่วยงานภาครัฐนั้นเพิ่งปรากฏภายหลัง เหตุการณ์พฤษภาทมิฬ พ.ศ.2535 (ประภาส ปิ่นตบแต่ง, 2541) ที่ชี้ให้เห็นกระบวนการมีส่วนร่วมของ ประชาชนว่ามีความสำคัญอย่างไร เริ่มตั้งแต่บนท้องถนนจนสามารถสร้างแรงกดดันไปสู่สภา ผู้แทนราษฎร ถือได้ว่าเป็นการเปิดประตูสู่โอกาสให้ประชาชนเข้ามามีบทบาทและมีส่วนร่วมทางการ เมืองอย่างเป็นทางการและไม่เป็นทางการ และในที่สุดแนวคิดและหลักประกันสิทธิของภาคประชาชน ในการมีส่วนร่วมเสนอกฎหมายในประเทศไทยก็ปรากฏชัดในรัฐธรรมนูญแห่งราชอาณาจักรไทย

พุทธศักราช 2540 โดยกำหนดให้มีบทบัญญัติว่าด้วยเรื่องสิทธิเสรีภาพ และการมีส่วนร่วมทางการเมืองของประชาชน เช่นเดียวกับรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2550 และยังคงมีหลักประกันดังกล่าวในรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2560 ที่บังคับใช้อยู่ในปัจจุบัน

(จเร พันธุ์เปรื่อง, 2565) รัฐธรรมนูญแห่งราชอาณาจักรไทยทุกฉบับในอดีตที่ผ่านมาได้บัญญัติให้ร่างพระราชบัญญัติจะตราขึ้นเป็นกฎหมายได้โดยรัฐสภาโดยได้กำหนดผู้มีสิทธิเสนอร่างพระราชบัญญัติและกำหนดให้พิจารณาร่างพระราชบัญญัติในสภาผู้แทนราษฎรก่อน เมื่อสภาผู้แทนราษฎรมิมติเห็นชอบแล้วให้ส่งให้วุฒิสภาพิจารณาต่อไป ปัจจุบันรัฐธรรมนูญและข้อบังคับการประชุมของแต่ละสภาได้กำหนดหลักเกณฑ์ที่เกี่ยวกับการเสนอการพิจารณา และการลงมติให้ความเห็นชอบร่างพระราชบัญญัติเพิ่มมากขึ้นทำให้กระบวนการตรากฎหมายตามบทบัญญัติของรัฐธรรมนูญแห่งราชอาณาจักรไทยเป็นไปด้วยความล่าช้าไม่มีประสิทธิภาพเท่าที่ควร (ปิยวรรณ บุญยิ่ง, 2552) ปัญหาการเสนอร่างกฎหมายในระบบกฎหมายไทยโดยระบบรัฐสภา ฝ่ายนิติบัญญัติหรือรัฐสภาเป็นองค์กรที่มีหน้าที่ในการพิจารณาร่างกฎหมายและให้ความเห็นชอบในการประกาศใช้บังคับเป็นกฎหมาย การเสนอร่างกฎหมายจึงเป็นวิธีการสำคัญในการกำหนดหรือเปลี่ยนแปลงนโยบายที่ส่งผลกระทบต่อการบริหารประเทศ โดยสิทธิในการเสนอร่างกฎหมายในแต่ละยุคแต่ละสมัยจะกระทำได้ต่างกัน ทั้งนี้ขึ้นอยู่กับบทบัญญัติรัฐธรรมนูญที่ประกาศใช้บังคับอยู่ในขณะนั้น (ยศกร วรณวิจิตร, 2555) การมีส่วนร่วมของประชาสังคมในการร่วมผลักดันพระราชบัญญัติเป็นการรวมตัวกันของภาคประชาสังคม เป็นการรวมกลุ่มแบบไม่เป็นทางการ มีความสัมพันธ์แบบหลวม ไม่มีสายบังคับบัญชาที่ชัดเจน ทุกคนคือเพื่อนกัน มีอุดมการณ์ร่วมกัน เข้ามาทำงานเพื่อจุดหมายเดียวกัน กิจกรรมการเคลื่อนไหวหลักของเครือข่ายภาคประชาสังคมคือการยื่นหนังสือและเข้าพบผู้มีอำนาจในการตัดสินใจเชิงนโยบาย (ทิพวรรณ หล่อสุวรรณรัตน์ สันติชัย อินทรอ่อน และ สุขยีน เทพทอง, 2547)

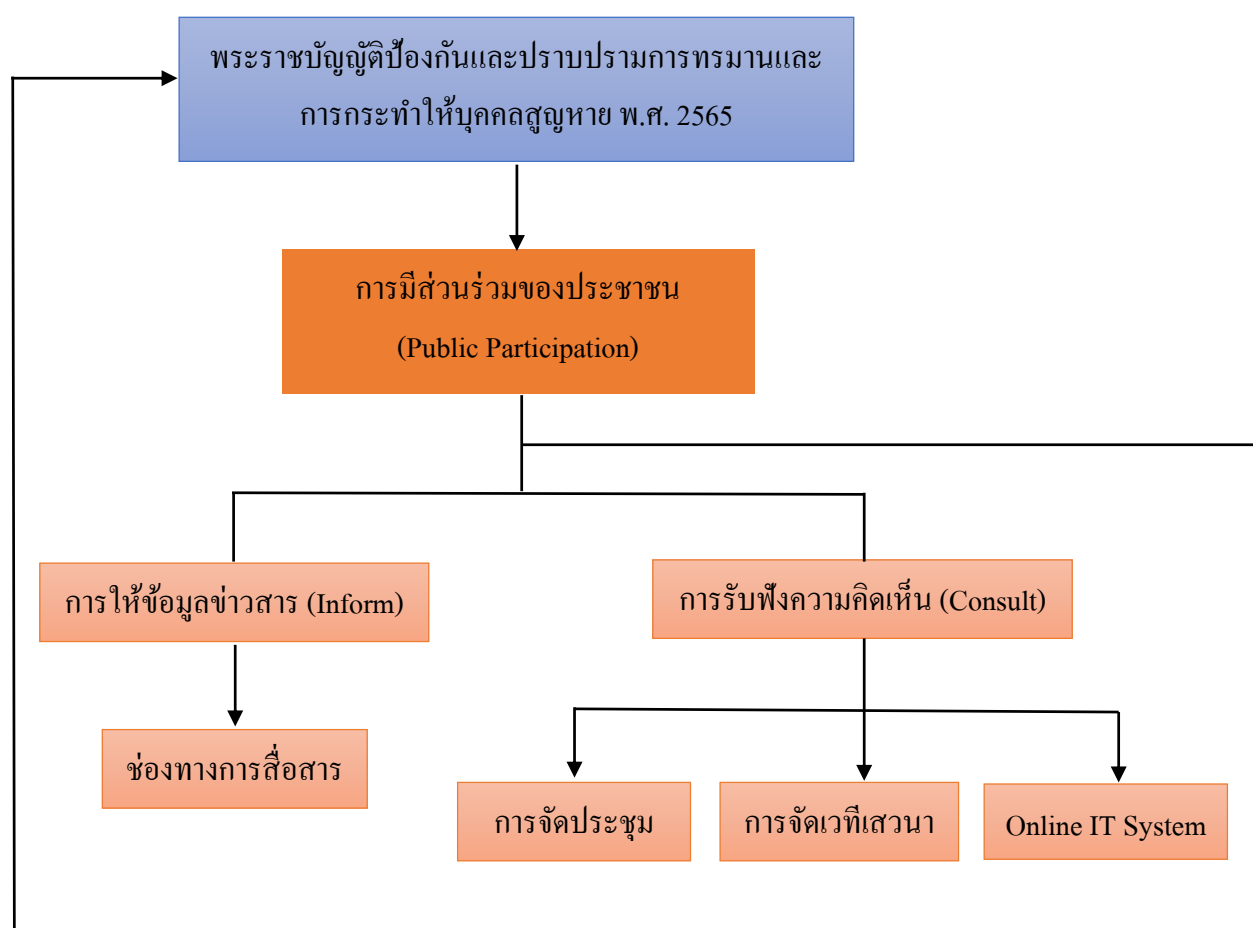
ปัญหาและอุปสรรคที่สำคัญ (จรรยา หยูทอง-แสงอุทัย 2559:ออนไลน์) เห็นว่า ประการแรกเนื่องจากสังคมไทยเป็นสังคมอำนาจนิยม-อุปถัมภ์ ผู้มีอำนาจไม่ค่อยยอมรับฟังความคิดเห็นของคนที่มีตำแหน่งที่ต่ำกว่า หรือด้อยกว่า ทั้งในองค์กร และภายนอกองค์กร สร้างความชอบธรรมให้แก่ความคิดเห็นของตนเอง และสร้างความไม่ชอบธรรมให้แก่ฝ่ายที่เห็นต่าง ประการที่สอง ผู้มีส่วนร่วมฝ่ายที่สนับสนุนหรือมีความคิดคล้อยตามผู้มีอำนาจจะทำหน้าที่ปกป้องผู้มีอำนาจ และรุมประณามฝ่ายที่ไม่เห็นด้วยต่อผู้มีอำนาจ ด้อยค่าด้วยข้อมูลความรู้ และ ประการที่สาม ประชาชนส่วนใหญ่มิได้รับผลกระทบโดยตรง หรือรับผลกระทบก็ตามมักจะเพิกเฉยยังขาดความตระหนัก ซึ่งหมายถึงความรู้ ความเข้าใจที่แท้จริงในสิทธิ และบทบาทหน้าที่ของตนเอง ประชาชนอาจมองว่าตนเองไม่มีส่วนได้ส่วนเสียโดยตรง การเข้ามามีส่วนร่วมอาจทำให้ตนเองไม่อาจทำให้ได้รับประโยชน์อะไร

## กรอบแนวคิด

การศึกษาวิจัย เรื่อง พัฒนาการและความท้าทายในการมีส่วนร่วมของภาคประชาชนต่อการผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้บุคคลสูญหาย พ.ศ. 2565 ผู้วิจัยได้นำทฤษฎีของสมาคมนานาชาติด้านการมีส่วนร่วมของประชาชน (International Association for Public Participation หรือ IAP2) มาช่วยอธิบายระดับการมีส่วนร่วม ดังนี้

1 การให้ข้อมูลข่าวสาร (Inform) เพื่อให้ข้อมูลข่าวสารแก่ประชาชนและเสริมสร้างความเข้าใจของประชาชนเกี่ยวกับประเด็นปัญหาทางเลือกและทางเลือก

2 การรับฟังความคิดเห็น (Consult) เพื่อได้รับข้อมูลและความคิดเห็นจากประชาชนเกี่ยวกับสภาพปัญหา ความคิดเห็น และแนวทางแก้ไข



## วิธีดำเนินการวิจัย

งานวิจัยชิ้นนี้เป็นงานวิจัยเชิงคุณภาพ (qualitative research) ที่มุ่งศึกษาและทำความเข้าใจอุปสรรค และข้อท้าทายในการมีส่วนร่วมของภาคประชาชนต่อการผลักดันพระราชบัญญัติป้องกันและปราบปรามการทรมานและการกระทำให้บุคคลสูญหาย พ.ศ.2565 การศึกษาครั้งนี้ใช้วิธีการศึกษาจากเอกสาร (Documentary Research) ได้แก่เอกสารชั้นต้น (Primary documents) โดยการเก็บรวบรวมข้อมูล



จากเรื่องราวที่เกิดขึ้นจริงของเรื่องราวต่าง ๆ ที่เกี่ยวข้อง และผู้ที่เกี่ยวข้องกับเรื่องราวนั้นเป็นผู้รวบรวม ข้อมูล เช่น เอกสารทางกฎหมาย รายงานการประชุม หนังสือราชการ มติคณะรัฐมนตรี รายงานต่าง ๆ และคำสัมภาษณ์ของผู้ที่เกี่ยวข้องกับเหตุการณ์ และเอกสารชั้นรอง (Secondary documents) เป็นการเก็บ รวบรวมเอกสารและงานวิจัยที่มีอยู่แล้ว เช่น เอกสารทางวิชาการ หนังสือพิมพ์ วารสาร หนังสือ งานวิจัย วิทยานิพนธ์ บทความ บทสัมภาษณ์ และข้อมูลจากสื่อออนไลน์ที่เกี่ยวข้องทั้งภาษาไทยและภาษาอังกฤษ

### **ข้อค้นพบงานวิจัย**

ข้อค้นพบจากงานวิจัยในครั้งนี้พบว่า กระบวนการ วิธีการ รูปแบบต่าง ๆ จากการมีส่วนร่วม ของประชาชนมีผลต่อการผลักดันพระราชบัญญัติโดยประชาชนจะใช้สิทธิตามช่องทางการมีส่วนร่วม ตามที่รัฐธรรมนูญระบุไว้ แม้ว่าการมีส่วนร่วมของประชาชนจะต้องเผชิญกับปัญหาอุปสรรคหลาย ประการทั้งแรงต้านและแรงเสียดทานจากหน่วยงานของรัฐ ตั้งแต่ระดับร่างพระราชบัญญัติโดยรัฐสภา ซึ่งได้กำหนดผู้มีสิทธิเสนอร่างพระราชบัญญัติและกำหนดให้พิจารณาร่างพระราชบัญญัติในสภา ผู้แทนราษฎรก่อน เมื่อสภาผู้แทนราษฎรมิมติเห็นชอบแล้วให้ส่งให้วุฒิสภาพิจารณา รวมไปถึงการ ประชุมของแต่ละสภาได้กำหนดหลักเกณฑ์ที่เกี่ยวกับการเสนอการพิจารณา และการลงมติให้ความ เห็นชอบร่างพระราชบัญญัติเพิ่มมากขึ้นทำให้กระบวนการตรากฎหมายตามบทบัญญัติของรัฐธรรมนูญ แห่งราชอาณาจักรไทยเป็นไปด้วยความล่าช้า การเสนอร่างกฎหมายโดยภาคประชาชนก็ยังมีข้อจำกัด เช่น การจัดทำร่างกฎหมาย การระดมรายชื่อยังไม่ได้รับความสนใจจากสังคม ขาดความเชี่ยวชาญการ จัดทำร่าง และร่างกฎหมายของภาคประชาชนมักถูกแก้ไขสาระสำคัญโดยจะมีร่างกฎหมายที่เสนอโดย รัฐบาลขึ้นมาประจบ นอกจากนี้ยังพบว่าเมื่อมีการผลักดันกฎหมายหน่วยงานภาครัฐที่เกี่ยวข้อง จะเป็น ผู้ดำเนินการจัดรับฟังความคิดเห็น ทั้งเป็นทางการและไม่เป็นทางการ โดยจะมีการเชิญผู้เข้าร่วมทั้งภาค ประชาชน ภาคประชาสังคม หน่วยงานภาครัฐที่เกี่ยวข้อง นักกฎหมาย และผู้ที่ได้รับผลกระทบ เข้ามาให้ ความเห็นและข้อเสนอแนะต่อพระราชบัญญัติ โดยมีการจัดการรับฟังความคิดเห็น 3 วิธี คือ 1. การจัด ประชุมหน่วยงานที่เกี่ยวข้องเพื่อรับฟังความคิดเห็น 2. การรับฟังความคิดเห็นผ่านเวทีเสวนา และ 3. การ รับฟังความคิดเห็นผ่านระบบเทคโนโลยี

### **บทสรุปและข้อเสนอแนะ**

การผลักดันพระราชบัญญัติโดยการมีส่วนร่วมของภาคประชาชนจะประสบผลสำเร็จได้ภายใต้ เงื่อนไขที่ว่า เจ้าหน้าที่หน่วยงานภาครัฐต้องยินยอมพร้อมใจเป็นส่วนหนึ่งของการมีส่วนร่วมในทุก ระดับ การมุ่งเน้นบทบาทของภาคประชาชนและบทบาทของภาครัฐในการมีส่วนร่วมควรเป็นไปใน ทิศทางเดียวกัน ไม่ว่าจะเป็นนักการเมืองหรือเจ้าหน้าที่รัฐ เนื่องจากการดำเนินโครงการ/กิจกรรม หรือ นโยบายใด ๆ ก็ตามบนฐานการมีส่วนร่วมของภาคประชาชนนั้น จะมีทั้งการริเริ่มผลักดันโครงการ/

กิจกรรม หรือนโยบายที่เกิดจากภาคประชาชนเอง ที่เกิดจากบทบาทของภาคประชาชนจากการส่งเสริมของภาครัฐ และเกิดจากภาครัฐเป็นผู้กำกับชี้้นำการมีส่วนร่วมของภาคประชาชน อย่างไรก็ตามภาครัฐมักจะมิบทบาทในการกระตุ้นและส่งเสริมการมีส่วนร่วมของภาคประชาชนในประเด็นที่เป็นนโยบายสาธารณะ หากเห็นว่าการดึงภาคประชาชนเข้ามามีส่วนร่วมในกระบวนการตัดสินใจในเรื่องนั้น ๆ จะเป็นประโยชน์ต่อหน่วยงานตนเอง มากกว่าการที่หน่วยงานจะมีบทบาทเพียงฝ่ายเดียว ในทางกลับกันเจ้าหน้าที่ของรัฐก็อาจปิดกั้นหรือจำกัดขอบเขตการมีส่วนร่วมของภาคประชาชนหากเห็นว่าบทบาทของภาคประชาชนนั้น อาจส่งผลกระทบต่อหรือเป็นอุปสรรคในการทำหน้าที่ของหน่วยงานตนเอง

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# สิทธิทางการศึกษาในประเทศพักพิงชั่วคราว: กรณีศึกษาเด็กผู้แสวงหาที่พำนักชาวซีเรียในประเทศไทย<sup>1</sup>

## Rights to Education in the Transit Country:

### Cases Study of Former Syrian Asylum Seeker Children in Thailand

นางสาวสลินรัตน์ พณิชย์อำนวย<sup>2</sup>

สถาบันสิทธิมนุษยชนและสันติศึกษา มหาวิทยาลัยมหิดล

#### บทคัดย่อ

บทความชิ้นนี้มีวัตถุประสงค์เพื่อวิเคราะห์สถานการณ์การเข้าถึงการศึกษาขั้นพื้นฐานในระดับชั้นประถมศึกษาผ่านประสบการณ์ของอดีตผู้ลี้ภัยชาวซีเรียในประเทศไทย ภายใต้ข้อบ่งชี้ด้านสิทธิทางการศึกษาทั้ง 4 ข้อ ได้แก่ ข้อที่ 1 การศึกษาที่สนับสนุนโดยรัฐ (Availability) โดยรัฐจะต้องจัดให้มีการศึกษาระดับประถมศึกษาเป็นภาคบังคับและไม่มีค่าใช้จ่าย ข้อที่ 2 การศึกษาที่ไม่เลือกปฏิบัติและทุกคนสามารถเข้าถึงได้ (Accessibility) ข้อที่ 3 การศึกษาที่เป็นที่ยอมรับของผู้เรียน (Acceptability) และข้อที่ 4 การศึกษาที่สามารถปรับใช้ในชีวิตจริง (Adaptability) เป็นการศึกษาที่ตอบสนองต่อความต้องการของผู้เรียน รวมถึงเคารพในความแตกต่างทางสังคมและวัฒนธรรม และสอดคล้องกับบริบทสังคม โดยทำการเก็บรวบรวมข้อมูลจากการศึกษาเอกสารที่เกี่ยวข้อง รวมถึงสัมภาษณ์เชิงลึกกับอดีตผู้ลี้ภัยชาวซีเรียที่เคยอาศัยอยู่ในกรุงเทพฯ ตั้งแต่ปี 2556-2565 ตลอดจนผู้ที่มีส่วนเกี่ยวข้องอื่นๆ ผลการศึกษาพบว่า นโยบายการศึกษาจะดูเหมือนให้สิทธิทางการศึกษาแก่เด็กผู้แสวงหาที่ลี้ภัยชาวซีเรียเช่นเดียวกับเด็กไทยและเด็กสัญชาติอื่น ๆ อย่างไม่เลือกปฏิบัติ แต่เด็กผู้แสวงหาที่ลี้ภัยชาวซีเรียยังไม่สามารถเข้าถึงสิทธิทางการศึกษาได้อย่างเต็มที่เพราะข้อจำกัดทางภาษาสืบเนื่องมาจากระยะเวลาและวิธีการเรียนการสอนภาษาไทยก่อนเข้าเรียนในโรงเรียนไทยยังไม่มีประสิทธิภาพเพียงพอ ข้อจำกัดทางสถานะทางการเงินของครอบครัว และข้อจำกัดทางกฎหมายอัน

<sup>1</sup> บทความนี้เป็นส่วนหนึ่งของวิทยานิพนธ์เรื่องสิทธิในการมีชีวิตรอดในประเทศพักพิงชั่วคราว: กรณีศึกษาอดีตผู้ลี้ภัยชาวซีเรียในประเทศไทย “Rights to Survival in the Transit Country: Experiences of Former Syrian Asylum Seekers in Thailand” ซึ่งต่อมาคณะกรรมการสอบวิทยานิพนธ์ได้เสนอให้มีการเปลี่ยนแปลงชื่อเรื่องเป็น “สิทธิทางการศึกษาในประเทศพักพิงชั่วคราว: กรณีศึกษาเด็กผู้แสวงหาที่พำนักชาวซีเรียในประเทศไทย” “Rights to Education in the Transit Country: Cases Study of Former Syrian Asylum Seeker Children in Thailand” และเป็นส่วนหนึ่งของการศึกษาหลักสูตรศิลปศาสตรมหาบัณฑิต สาขาสิทธิมนุษยชนและสันติศึกษา มหาวิทยาลัยมหิดล ภายใต้อาจารย์ที่ปรึกษาหลัก ผู้ช่วยศาสตราจารย์ พัชรธีรา นาคอุไรรัตน์ และผู้ช่วยศาสตราจารย์นภารัตน์ กรรณรัตน์สูตร ที่ปรึกษาร่วม

<sup>2</sup> นักศึกษาปริญญาโท หลักสูตรศิลปศาสตรมหาบัณฑิต สาขาสิทธิมนุษยชนและสันติศึกษา, มหาวิทยาลัยมหิดล

เนื่องจากสถานการณ์การดำรงอยู่ในประเทศไทยอย่างไม่ถูกกฎหมายของครอบครัว ส่งผลให้เด็กผู้แสวงหาที่ลี้ภัยชาวซีเรียไม่สามารถเข้าถึงการศึกษาได้อย่างเต็มประสิทธิภาพ และหลุดออกจากระบบการศึกษาไทยในที่สุด

**คำสำคัญ :** เด็กผู้ลี้ภัยชาวซีเรียในประเทศไทย / สิทธิในการศึกษา / กลุ่มเปราะบาง / การเข้าถึงการศึกษา

## ABSTRACT

This article aims to analyze the situation of access to basic education at the primary level through the experiences of former Syrian asylum seekers children in Thailand under the 4As framework, such as (1) Availability; the state must provide primary education compulsory and free of charge. (2) Accessibility: non-discriminatory education accessible to all (3) Acceptability: provide quality and appropriate education for all students. (4) Adaptability: provide education that meets the needs of students and aligns with societal context while also being applicable in real life. This qualitative study incorporates documentary research and in-depth interviews with former Syrian asylum seekers who resided in Bangkok from 2013 to 2022, including relevant specialists. The findings showed that although the education policy appears to provide equal access to education for Syrian asylum seeker children, similar to Thai and other nationalities. However, Syrian asylum seeker children cannot fully access the right to education due to language limitations resulting from the duration and teaching methods of learning the Thai language before enrolling in Thai school, which are not sufficiently practical, financial constraints of the families, and legal limitations resulting from their illegal status in Thailand also prevent Syrian asylum seeker children from accessing education effectively.

**KEYWORDS:** Syrian Asylum Seeker Children in Thailand / Right to Education / Vulnerable group / Access to Education

## บทนำ

วิกฤตสงครามกลางเมืองซีเรียที่ยืดเยื้อตลอดระยะเวลา 11 ปี ส่งผลให้เกิดการพลัดถิ่นครั้งใหญ่ของโลก โดยมีผู้ลี้ภัยซีเรียที่ขึ้นทะเบียนแล้วมากกว่า 6.8 ล้านคนในปี 2564 ซึ่งเป็นเด็กไม่น้อยกว่า 2.6 ล้านคน (UNHCR, Refugee Data Finder, 2021) พวกเขาออกเดินทางเพื่อแสวงหาที่ปลอดภัยไปกว่า 99 ประเทศทั่วโลก ไม่ว่าจะเป็น เลบานอน ตุรกี จอร์แดน อิรัก ออสเตรเลีย แคนาดา รวมถึงประเทศไทย (UNHCR, Refugee Data Finder, 2011-2022) พวกเขาเดินทางมายังประเทศไทยด้วยวีซ่านักท่องเที่ยว เพื่อขอลี้ภัยกับสำนักงานข้าหลวงใหญ่ผู้ลี้ภัยแห่งสหประชาชาติ (UNHCR) โดยหวังจะไปตั้งถิ่นฐานใหม่ยังประเทศที่สาม (Sarah Haaij, 2017; Sansom Milton, 2018; Hathairat Phaholtap, 2018)

| Year | Location Description | Female 0 - 4 | Female 5 - 11 | Female 12 - 17 | Female 18 - 59 | Female 60 | Male 0 - 4 | Male 5 - 11 | Male 12 - 17 | Male 18 - 59 | Male 60 | Total |
|------|----------------------|--------------|---------------|----------------|----------------|-----------|------------|-------------|--------------|--------------|---------|-------|
| 2011 | Bangkok              | 0            | 0             | 0              | 0              | 0         | 0          | 0           | 0            | 8            | 0       | 8     |
| 2012 | Bangkok              | 0            | 5             | 0              | 8              | 0         | 0          | 5           | 0            | 52           | 0       | 70    |
| 2013 | Bangkok              | 7            | 5             | 5              | 55             | 0         | 6          | 5           | 5            | 95           | 5       | 188   |
| 2014 | Bangkok              | 10           | 14            | 0              | 50             | 5         | 11         | 5           | 5            | 150          | 0       | 250   |
| 2015 | Bangkok              | 16           | 17            | 0              | 63             | 0         | 8          | 16          | 5            | 213          | 0       | 338   |
| 2016 | Bangkok              | 10           | 12            | 6              | 54             | 5         | 6          | 18          | 6            | 188          | 5       | 310   |
| 2017 | Bangkok              | 8            | 13            | 5              | 56             | 5         | 15         | 17          | 18           | 194          | 5       | 336   |
| 2018 | Bangkok              | 5            | 11            | 5              | 44             | 5         | 11         | 13          | 8            | 176          | 5       | 283   |
| 2019 | Bangkok              | 5            | 6             | 5              | 29             | 5         | 8          | 7           | 6            | 149          | 5       | 225   |
| 2020 | Bangkok              | 0            | 8             | 8              | 33             | 5         | 6          | 7           | 7            | 152          | 6       | 232   |
| 2021 | Bangkok              | 0            | 0             | 12             | 28             | 5         | 0          | 9           | 9            | 149          | 8       | 220   |
| 2022 | Bangkok              | 5            | 0             | 7              | 21             | 5         | 6          | 10          | 10           | 142          | 8       | 214   |

ตารางที่ 1 จำนวนผู้ลี้ภัยและผู้แสวงหาที่ลี้ภัยชาวซีเรียแบ่งตามเพศและอายุ ตั้งแต่ปี พ.ศ.2554-2565

ที่มา – UNHCR, Refugee Data Finder, 2554-2565

จากข้อมูลสถิติของสำนักงานข้าหลวงใหญ่ผู้ลี้ภัยแห่งสหประชาชาติ (United Nations High Commissioner for Refugees หรือ UNHCR) บ่งชี้ว่ามีชาวซีเรียจำนวนหลายร้อยชีวิตได้ลงทะเบียนเพื่อขอลี้ภัยในกรุงเทพฯ ประเทศไทย ในจำนวนนี้มีเด็กอายุ 0-17 ปี ที่ลงทะเบียนตั้งแต่ปี พ.ศ.2555 จนถึงปัจจุบัน (UNHCR, Refugee Data Finder, 2022) เด็กกลุ่มนี้ได้รับผลกระทบจากสงครามและความรุนแรง ซึ่งจัดเป็นกลุ่มเปราะบางที่ต้องได้รับการคุ้มครองอย่างทันที่ (UNHCR Thailand, n.d.) ที่สำคัญเด็กซีเรียจำนวนมากต้องออกจากโรงเรียนเป็นเวลาหลายปีเนื่องจากการพลัดถิ่น ความยากจน และข้อจำกัดทางทรัพยากร ด้านการศึกษาในที่ที่พวกเขาอยู่ พวกเขาจึงไม่สามารถเรียนรู้และขาดโอกาสที่จะมีอนาคตที่สดใส (Mercy Corps, 2015) ด้วยเหตุนี้เด็กผู้ลี้ภัยซีเรียจึงต้องการการดูแลที่เหมาะสมอย่างเร่งด่วนเพื่อให้พวกเขาสามารถเข้าถึงสิทธิที่จำเป็นในช่วงของการลี้ภัยโดยเฉพาะสิทธิด้านการศึกษา

ประเทศไทยมีนโยบายที่เปิดกว้างรับเด็กที่ไม่มีสัญชาติไทยและไม่มีทะเบียนราษฎรเข้าเรียนเพื่อลดความเหลื่อมล้ำทางการศึกษามานานนับทศวรรษ (สำนักงานเลขาธิการสภาการศึกษา, 2561) ตลอดจนได้เริ่มดำเนินนโยบาย "การศึกษาเพื่อปวงชน" (Education for All) ในปี พ.ศ. 2533 และเข้าเป็นภาคีอนุสัญญาว่าด้วยสิทธิเด็ก (Convention on the Rights of the Child หรือ CRC) ที่มีผลบังคับใช้เมื่อวันที่ 26 เมษายน พ.ศ.2535 ซึ่งประเทศไทยมีพันธกรณีที่จะต้องให้ความสำคัญด้านการศึกษาแก่เด็กทุกเชื้อชาติ ถึงแม้ว่าจะยังไม่ได้ถอนข้อสงวน ข้อที่ 22 ก็ตาม แต่ประเทศไทยก็มีหน้าที่คุ้มครองเด็กที่เป็นผู้แสวงหาที่ลี้ภัยตามหลักการห้ามเลือกปฏิบัติ (พวงรัตน์ ปฐมสิริรักษ์, 2565, น. 427) ที่สำคัญยังมีมติของคณะรัฐมนตรีในวันที่ 5 กรกฎาคม พ.ศ.2548 ที่ให้กระทรวงศึกษาธิการจัดการศึกษาแก่บุคคลที่ไม่มีสัญชาติไทยและไม่มีหลักฐานทางทะเบียนราษฎร โดยไม่จำกัดเชื้อชาติและภาษา เพื่อให้ทุกคนมีโอกาสได้รับการศึกษา ตลอดจนเรียนรู้ภาษาไทย วัฒนธรรม และประเพณี (กระทรวงศึกษาธิการ, 2552) อีกทั้งรัฐธรรมนูญแห่งราชอาณาจักรไทย พ.ศ.2560 มาตรา 54 ได้ระบุไว้ว่ารัฐมีหน้าที่จัดการศึกษาอย่างมีคุณภาพให้แก่เด็กทุกคนเป็นเวลา 12 ปี ตั้งแต่ก่อนวัยเรียนจนจบการศึกษาภาคบังคับแบบให้เปล่าตาม อย่างไรก็ตามแม้ประเทศไทยจะให้สิทธิในการศึกษาแก่เด็กผู้ลี้ภัยทุกสัญชาติ รวมถึงเด็กชาวซีเรียเช่นเดียวกับเด็กไทย แต่ในทางปฏิบัตินั้นกลับถูกจำกัดด้วยหลักฐานเรื่องวุฒิการศึกษาจากประเทศต้นทาง หรือความสามารถในการใช้ภาษาไทย (อัญชลี ศรีชมภู, 2562) ตลอดจนผู้ปกครองมักไม่สามารถจ่ายค่าเล่าเรียนที่เกิดขึ้นได้ (Paradee Thoresen, 2018, น. 51) นอกจากนี้การที่ประเทศไทยไม่ได้รับรองอนุสัญญาว่าด้วยสถานภาพผู้ลี้ภัย พ.ศ.2494 (The 1951 Refugee Convention) และไม่ได้แยกแยะความแตกต่างระหว่างผู้ลี้ภัย และผู้อพยพผิดกฎหมาย ส่งผลให้ผู้ลี้ภัย

เป็นผู้อยู่อาศัยแบบผิดกฎหมาย ทำให้ผู้ปกครองหวาดกลัวการถูกจับกุมขณะพาลูกหลานไปโรงเรียน (JRS, 2018) ดังนั้นงานวิจัยชิ้นนี้จึงมุ่งเน้นศึกษาสถานการณ์ในการเข้าถึงการศึกษาขั้นพื้นฐาน โดยศึกษาผ่านประสบการณ์ในอดีตของผู้ขอลี้ภัยชาวซีเรียที่แสวงหาที่พักพิงชั่วคราวในประเทศไทย ตั้งแต่ปี พ.ศ.2556-2565 ขณะนั้นพวกเขาเรียนอยู่ในระดับชั้นประถมศึกษาตอนต้นและตอนปลายที่โรงเรียนไทยในกรุงเทพฯ ซึ่งเป็นช่วงเวลาที่การศึกษาของพวกเขาถูกทำลายด้วยข้อจำกัดทางความสามารถ เศรษฐกิจ และกฎหมายไทย ทั้งนี้เพื่อเป็นประโยชน์ต่อการจัดการศึกษาที่เหมาะสมแก่เด็กซีเรียที่ยังคงลี้ภัยอยู่ในประเทศไทย

### คำถามการวิจัย

1. อดีตผู้ขอลี้ภัยชาวซีเรียเผชิญสถานการณ์ในการเข้าถึงการศึกษาขั้นพื้นฐานในประเทศไทยอย่างไรบ้าง

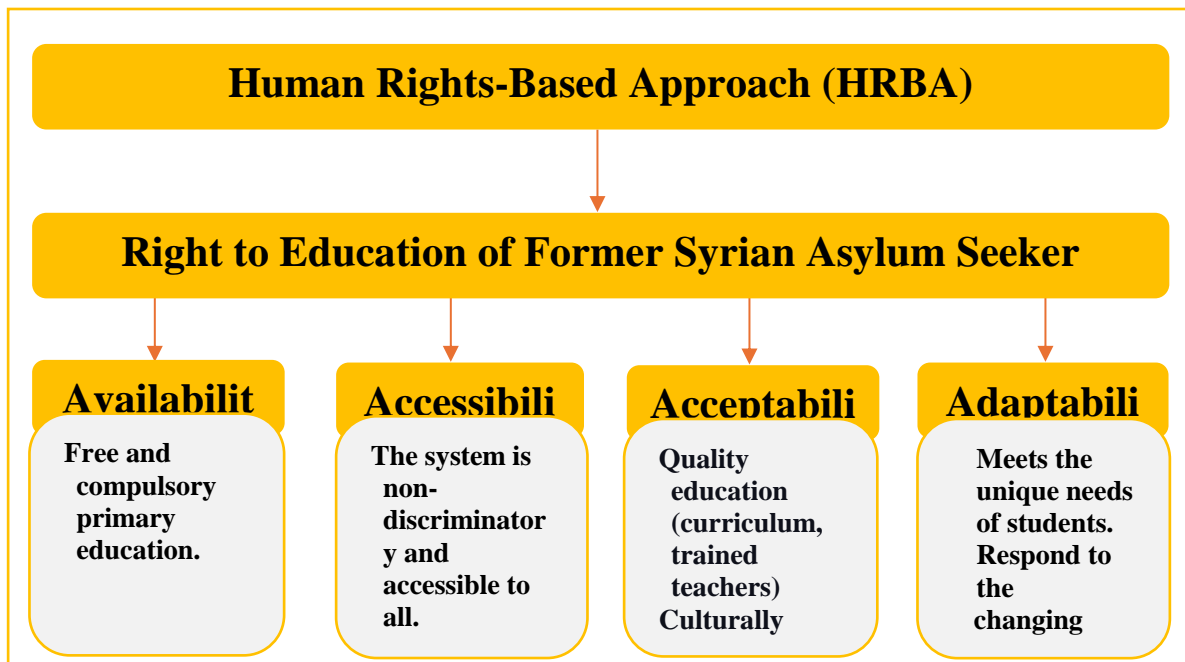
### วัตถุประสงค์การวิจัย

1. เพื่อศึกษาสถานการณ์ในการเข้าถึงการศึกษาขั้นพื้นฐานในประเทศไทย โดยผ่านประสบการณ์ของอดีตผู้ขอลี้ภัยชาวซีเรียที่แสวงหาที่พักพิงชั่วคราวในกรุงเทพฯ ประเทศไทย

### ขอบเขตงานวิจัย

งานวิจัยชิ้นนี้เป็นงานวิจัยเชิงคุณภาพ มุ่งศึกษาสถานการณ์ในการเข้าถึงการศึกษาขั้นพื้นฐานของอดีตผู้ขอลี้ภัยชาวซีเรียที่เคยอาศัยอยู่ในกรุงเทพฯ ประเทศไทย ตั้งแต่ปี พ.ศ.2556-2565 ขณะนั้นพวกเขาศึกษาอยู่ในระดับชั้นประถมศึกษาตอนต้นและตอนปลายที่โรงเรียนไทยในกรุงเทพฯ ซึ่งเป็นช่วงเวลาที่การศึกษาของพวกเขาถูกทำลายด้วยข้อจำกัดทางความสามารถ เศรษฐกิจ และกฎหมายไทย

## กรอบแนวคิดการวิจัย



ภาพประกอบ 1: กรอบแนวคิดงานวิจัย

คู่มือสิทธิในการศึกษา (Right to Education Handbook) ขององค์การการศึกษา วิทยาศาสตร์และวัฒนธรรมแห่งสหประชาชาติ (United Nations Educational, Scientific and Cultural Organization หรือ UNSECO) ได้ระบุว่า การศึกษาไม่ใช่สิทธิพิเศษ แต่เป็นสิทธิมนุษยชน และการศึกษาเป็นรากฐานในการสร้างสันติภาพ และช่วยขับเคลื่อนการพัฒนาที่ยั่งยืน (UNSECO, 2019) ดังนั้นแล้วทุกคนย่อมมีสิทธิในการศึกษา ไม่เว้นแม้แต่เด็กผู้ลี้ภัยชาวซีเรีย เพราะในฐานะมนุษย์นั้นทุกคนย่อมมีสิทธิได้รับการพัฒนาให้มีความเป็นอยู่ที่ดี อันจะช่วยพัฒนาประเทศให้เกิดความมั่นคงและสมดุลกับสิทธิมนุษยชน ด้วยเหตุนี้ผู้วิจัยจึงเลือกใช้กรอบแนวคิดทฤษฎีสิทธิมนุษยชน (Human Rights-Based Approach หรือ HRBA) เพื่อทำความเข้าใจสถานการณ์ในการเข้าถึงการศึกษาขั้นพื้นฐานของอดีตผู้ลี้ภัยชาวซีเรียที่เคยลี้ภัยอยู่ในกรุงเทพฯ ประเทศไทย โดยใช้ตัวบ่งชี้สิทธิทางการศึกษาที่พัฒนาโดย Katarina Tomasevski อดีตผู้อำนวยการพิเศษของสหประชาชาติ จากคู่มือสิทธิในการศึกษา (UNESCO, 2019) เป็นเครื่องมือในการวิเคราะห์สถานการณ์ที่เกิดขึ้น ตลอดจนข้อดี ข้อเสีย และข้อจำกัดต่างๆ ซึ่งมีทั้งหมด 4 องค์ประกอบด้วยกัน ดังนี้



**องค์ประกอบที่ 1** การศึกษาที่สนับสนุนโดยรัฐ (Availability) ภายใต้กฎหมายสิทธิมนุษยชนระหว่างประเทศ (International Human Rights Law หรือ IHRL) รัฐจะต้องจัดให้มีการศึกษาระดับประถมศึกษาเป็นภาคบังคับและไม่มีค่าใช้จ่าย

**องค์ประกอบที่ 2** การศึกษาที่ไม่เลือกปฏิบัติและทุกคนสามารถเข้าถึงได้ (Accessibility) โดยคนทุกกลุ่มในสังคมต้องสามารถเข้าถึงการศึกษาได้ ตลอดจนต้องไม่มีข้อจำกัดทางด้านกฎหมาย ภาษา และการเงิน เป็นตัวขวางกั้นโอกาสในการเข้าถึงการศึกษา

**องค์ประกอบที่ 3** การศึกษาที่เป็นที่ยอมรับของผู้เรียน (Acceptability) เด็กทุกคนควรได้รับการศึกษาที่มีคุณภาพ ได้มาตรฐานทั้งหลักสูตร เนื้อหา องค์ความรู้ และครูผู้สอน เป็นการศึกษาที่เคารพความแตกต่างทางสังคมและวัฒนธรรม และเคารพสิทธิของผู้เรียนทุกคน

**องค์ประกอบที่ 4** การศึกษาที่สามารถปรับใช้ในชีวิตจริง (Adaptability) โดยการศึกษาต้องตอบสนองต่อความต้องการของผู้เรียน และสอดคล้องกับบริบทของสังคม

### วิธีวิจัยและเครื่องมือที่ใช้ในการเก็บข้อมูล

การศึกษาวิจัยครั้งนี้ ผู้วิจัยเก็บรวบรวมข้อมูลดังนี้

#### 1. การศึกษาเอกสาร (Documentary Research)

ผู้วิจัยจะทำการศึกษาข้อมูลเอกสารที่เกี่ยวข้องทั้งภาษาไทยและอังกฤษ ตั้งแต่ปี พ.ศ. 2556 ถึง พ.ศ. 2565 โดยแบ่งการศึกษาออกเป็น 2 ระดับ คือ ระดับปฐมภูมิ (Primary Source) เช่น กฎหมายระหว่างประเทศ กฎหมายภายในประเทศ วิทยานิพนธ์ ข้อมูลสถิติ รายงาน และนโยบาย เป็นต้น และระดับทุติยภูมิ (Secondary Source) เช่น บทความวิชาการ สารคดี รวมถึงข้อมูลการสัมภาษณ์ผู้ลี้ภัยซีเรียในประเทศไทยผ่านสื่อสาธารณะต่างๆ เป็นต้น

#### 2. การสัมภาษณ์เชิงลึก (In-depth Interview)

ผู้วิจัยจะทำการสัมภาษณ์ออนไลน์กับผู้ที่มีส่วนเกี่ยวข้อง ดังนี้

**กลุ่มที่ 1** อดีตผู้ลี้ภัยชาวซีเรียจำนวน 2 คน ที่มีอายุ 18 ปีขึ้นไป โดยมีลูกหลานหรือเคยศึกษาในโรงเรียนไทยในระดับชั้นประถมศึกษาในช่วงเวลาที่ทำการลี้ภัยในประเทศไทย ระหว่างปี พ.ศ.2556-2565 และขณะนี้ได้ตั้งถิ่นฐานใหม่ยังประเทศที่สามเรียบร้อยแล้ว

**กลุ่มที่ 2** ผู้เชี่ยวชาญจากศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ จำนวน 1 คน โดยมีประสบการณ์ทำงานด้านการศึกษากับผู้ลี้ภัยในเขตเมืองตั้งแต่ปี พ.ศ.2557 จนถึงปัจจุบัน

## ผลการศึกษาและอภิปรายผลการศึกษา

จากการที่ผู้วิจัยได้ทำการศึกษาในประเด็นสิทธิในการเข้าถึงการศึกษาในประเทศพม่าพบว่า:  
กรณีศึกษาอดีตเด็กผู้ลี้ภัยชาวซีเรียในประเทศไทย จากเอกสาร แหล่งข้อมูลอิเล็กทรอนิกส์ ตลอดจนการสัมภาษณ์ผู้ที่เกี่ยวข้องกับงานวิจัยนี้ ซึ่งสามารถแสดงผลการศึกษาและอภิปรายได้ดังนี้

### 1. การศึกษาที่สนับสนุนโดยรัฐ (Availability)

ตามกฎหมายสิทธิมนุษยชนระหว่างประเทศ (International Human Rights Law หรือ IHRL) รัฐต้องจัดให้มีการศึกษาในระดับประถมศึกษาเป็นภาคบังคับและไม่มีค่าใช้จ่ายแก่เด็กทุกคน (UNESCO, 2019)

ผลการศึกษาพบว่า อดีตผู้ลี้ภัยชาวซีเรียสามารถเข้าเรียนที่โรงเรียนไทยได้ด้วยความช่วยเหลือจากเจ้าหน้าที่ศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ (Bangkok Refugee Centre หรือ BRC) พวกเขาผ่านการทดสอบทักษะทางภาษาไทยเบื้องต้นกับโรงเรียน หนึ่งในอดีตผู้ลี้ภัยชาวซีเรียมีหลักฐานการจบการศึกษาชั้นประถมศึกษาปีที่ 2 และ 3 มาจากประเทศซีเรีย ซึ่งเจ้าหน้าที่ที่ศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ ได้ทำการแปลเป็นภาษาอังกฤษให้กับทางโรงเรียน เขาจึงได้เข้าเรียนในระดับชั้นประถมศึกษาปีที่ 4 ซึ่งเขามีอายุได้ 13 ปี แต่น้องสาวของเขาไม่ได้มีหลักฐานทางการศึกษามาจากประเทศต้นทางเพราะต้องเผชิญกับสงครามขณะที่ยังเรียนไม่จบชั้นอนุบาล จึงถูกจัดให้เข้าเรียนในระดับชั้นประถมศึกษาปีที่ 1 ตอนที่มีอายุได้ 9 ปี จะเห็นได้ว่าโรงเรียนไทยเปิดโอกาสให้พวกเขาได้เข้าเรียนเช่นเดียวกับเด็กไทย และทำการเทียบโอนหน่วยกิตให้ได้เรียนต่อจากระดับชั้นที่จบมา การปฏิบัติของโรงเรียนไทยสอดคล้องกับนโยบาย "การศึกษาเพื่อปวงชน" (Education for All) และมติของคณะรัฐมนตรีในวันที่ 5 กรกฎาคม พ.ศ.2548 ที่ให้กระทรวงศึกษาธิการจัดการศึกษาแก่บุคคลที่ไม่มีสัญชาติไทยและไม่มีหลักฐานทางทะเบียนราษฎร โดยไม่จำกัดเชื้อชาติและภาษา เพื่อให้ทุกคนมีโอกาสในการเรียนรู้ภาษาไทย วัฒนธรรม ประเพณี และเป็นพลเมืองที่ดีของประเทศ (กระทรวงศึกษาธิการ, 2552) แต่นั่นหมายถึงว่าเด็กผู้ลี้ภัยชาวซีเรียจะต้องเรียนในรูปแบบเดียวกันกับเด็กไทยทุกประการ ทั้งนี้งานวิจัยของอัญชลี ศรีชมภู (2562) ได้ให้ข้อมูลเพิ่มเติมว่าการจัดการศึกษาในลักษณะนี้เป็นผลมาจากจำนวนเด็กผู้ลี้ภัยที่มีสัดส่วนน้อยกว่าเด็กไทยเป็นจำนวนมาก หากให้เรียนร่วมกับเด็กไทยจะช่วยให้เรียนรู้ภาษาไทยได้เร็วขึ้น อย่างไรก็ตามแนวทางการจัดการศึกษาดังกล่าวยังคงเผชิญกับข้อ

ท้าทายหลายอย่าง ไม่ว่าจะเป็นทักษะทางภาษาไทย ความแตกต่างของวัย หรือวัฒนธรรม ที่ส่งผลกระทบต่อ การศึกษาของเด็ก และการดำเนินงานของโรงเรียนไทย ทั้งนี้เป็นผลมาจากความคลุมเครือของนโยบายการ จัดการผู้ลี้ภัยที่ส่งผลต่อการนำนโยบายทางการศึกษามาปรับใช้ให้เกิดประสิทธิภาพสูงสุด

## 2. การศึกษาที่ไม่เลือกปฏิบัติและทุกคนสามารถเข้าถึงได้ (Accessibility)

คนทุกกลุ่มในสังคมต้องสามารถเข้าถึงการศึกษาได้โดยปราศจากการเลือกปฏิบัติ ตลอดจนต้องไม่มี อุปสรรคทางกฎหมาย ภาษา หรือการเงินเป็นตัวขวางกั้นโอกาสในการเข้าถึงการศึกษา (UNESCO, 2019) โดยเฉพาะเด็กผู้ลี้ภัยชาวซีเรียซึ่งเป็นกลุ่มเปราะบางที่ได้รับผลกระทบจากความรุนแรงของสงคราม และ ขาดโอกาสทางการศึกษาอยู่หลายปีเนื่องจากการพลัดถิ่น และความยากจน (Mercy Corps, 2015) ดังนั้น พวกเขาควรได้รับการสนับสนุนให้สามารถเข้าถึงการศึกษาขั้นพื้นฐานได้โดยปราศจากอุปสรรคต่างๆ ทั้งนี้ สามารถอธิบายผลการศึกษาได้ดังนี้

**2.1 อุปสรรคทางด้านภาษา** อดีตผู้ลี้ภัยชาวซีเรียและครอบครัวเคยพยายามที่จะสมัครเรียนใน โรงเรียนไทยด้วยตนเองในช่วงปีแรกที่เดินทางมาถึงประเทศไทย แต่กลับถูกปฏิเสธจากโรงเรียนไทย บางแห่งด้วยเพราะเขาไม่สามารถพูดไทยได้ ด้วยเหตุนี้เขาจึงต้องอยู่บ้านเป็นเวลาหลายปีก่อนที่จะ ได้รับความช่วยเหลือจากเจ้าหน้าที่ศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ โดยอดีตผู้ลี้ภัยชาวซีเรียคนที่ 1 ได้ให้สัมภาษณ์ไว้ดังนี้ “I went to some Thai schools like primary schools. They did not accept me. They said, you cannot speak not Thai, you cannot study here.”

**2.2 อุปสรรคทางความแตกต่างของวัย** ด้วยทักษะทางภาษาไทยที่ไม่เพียงพอ ทำให้ต้องเข้าเรียนใน ระดับชั้นที่ต่ำกว่าอายุจริง จึงเกิดความยากลำบากในการปรับตัวกับเพื่อนร่วมชั้นเรียนที่อายุน้อยกว่า และเกิดการถูกล้อเลียนตามมามากด้วยมีรูปร่างที่สูงใหญ่กว่าเพื่อน โดยอดีตผู้ลี้ภัยชาวซีเรียคนที่ 2 ได้ ให้สัมภาษณ์ไว้ดังนี้ “My daughter was put to study with the little kids that younger than her age because she needs to learn basic Thai, but many times it is hard to stay with little kids.

**2.3 อุปสรรคทางการเงินของครอบครัว** เนื่องจากเงินอุดหนุนที่ได้รับจากศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ ไม่เพียงพอต่อการจัดซื้อเครื่องแบบนักเรียนทั้งหมด ทำให้ผู้ปกครองเกิดความกังวลต่อการต้องหา ค่าใช้จ่ายส่วนต่าง โดยอดีตผู้ลี้ภัยชาวซีเรียคนที่ 1 ได้ให้สัมภาษณ์ไว้ดังนี้ “BRC helped me with

school fees and everything, but actually it was not enough to cover all school uniform.”

**2.4 อุปสรรคทางสถานะทางกฎหมาย** ถึงแม้ว่าโรงเรียนจะอยู่ใกล้บ้าน แต่ด้วยวิชาที่หมดอายุทำให้พ่อหรือแม่ที่ต้องเดินทางไปกลับโรงเรียนพร้อมลูกเกิดความหวาดกลัวว่าอาจถูกจับกุมระหว่างทาง โดยอดีตผู้ขอลี้ภัยชาวซีเรียคนที่ 2 ได้ให้สัมภาษณ์ไว้ดังนี้ “I scared when I sent my kids to school and go back home alone, the police can catch me anytime.”

ทั้งนี้อดีตผู้ขอลี้ภัยชาวซีเรียได้ให้ข้อมูลที่สอดคล้องกับเจ้าหน้าที่ศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ ว่ามีเด็กซีเรียอีกหลายคนที่ไม่สามารถเข้าเรียนในโรงเรียนได้เพราะอายุที่เกินเกณฑ์ ซึ่งแสดงให้เห็นว่าแม่พวกเขาจะได้รับสิทธิในการเข้าถึงการศึกษาขั้นพื้นฐานได้โดยไม่เสียค่าใช้จ่ายตามกฎหมายไทย แต่ในทางปฏิบัติกลับยังมีเด็กซีเรียที่ไม่ได้รับสิทธินั้น สำหรับคนที่สามารถเข้าเรียนได้ก็ต้องเผชิญกับอุปสรรคต่างๆ ที่อาจเป็นเหตุผลทำให้หลุดออกจากระบบการศึกษาได้ในที่สุดหากไม่ได้รับการแก้ไข ซึ่งผลการศึกษาข้างต้นสอดคล้องกับงานวิจัยของ Michaelle Marie Tauson (2016 หน้า 116) ที่ชี้ให้เห็นถึงอุปสรรคในการเข้าถึงการศึกษาระดับปฐมศึกษาของผู้ลี้ภัย โดยพวกเขามักถูกปฏิเสธจากโรงเรียนในไทยท้องถิ่น หรือไม่พวกเขาจะต้องพูดภาษาไทยอยู่แล้วจึงจะสามารถเข้าเรียนได้ หรือการที่เข้าเรียนได้เฉพาะชั้นประถมศึกษาปีที่ 1 โดยไม่คำนึงถึงการศึกษาหรืออายุก่อนหน้านี้ และพวกเขาก็ยังมีข้อจำกัดในการต้องซื้อชุดนักเรียน หนังสือ และอุปกรณ์ต่างๆ ตลอดจนความเสี่ยงในการถูกจับกุมขณะเดินทางไปกลับโรงเรียน โดยมีตัวอย่างการจับกุมกลุ่มผู้ลี้ภัย Ahmadiyya ชาวปากีสถาน จำนวน 21 คน ซึ่งกลุ่มแม่และลูก ๆ ถูกจับกุมขณะเดินทางไปโรงเรียนในเดือนพฤศจิกายน 2556 ข้อค้นพบดังกล่าวสะท้อนให้เห็นถึงอุปสรรคที่เด็กผู้ขอลี้ภัยต้องเผชิญในการเข้าถึงสิทธิในการศึกษาไม่ว่าจะเป็นภาษา การเงิน เสรีภาพในการเดินทาง ตลอดจนชี้ให้เห็นถึงความความลึกลับของนโยบายการศึกษาเพื่อปวงชนที่ขาดความรู้ในการนำนโยบายไปปฏิบัติจากการที่เด็กถูกเลือกปฏิบัติจากผู้ให้บริการทางการศึกษา ดังนั้นเพื่อให้สิทธิทางการศึกษาเป็นไปเพื่อปวงชนอย่างแท้จริง ทุกภาคส่วนต้องดำเนินงานตามนโยบายดังกล่าวอย่างเคร่งครัด ทั้งนี้รวมถึงการสร้างจิตสำนึกในผู้นำโรงเรียนต่างๆ อีกด้วย (ลี้ภัยในประเทศไทย, 2564)

### 3. การศึกษาที่เป็นที่ยอมรับของผู้เรียน (Acceptability)

เด็กทุกคนควรได้รับการศึกษาที่มีคุณภาพ ได้มาตรฐานทั้งหลักสูตร เนื้อหา องค์ความรู้ และครูผู้สอน เป็นการศึกษาที่เคารพความแตกต่างทางสังคมและวัฒนธรรม และเคารพสิทธิของผู้เรียนทุกคน (UNESCO, 2019) ผลการศึกษาพบว่าแม้ว่าพวกเขาจะผ่านการทดสอบภาษาไทยเบื้องต้นกับทางโรงเรียน ในการฟัง พูด อ่าน เขียน จนสามารถเข้าไปเรียนได้ในที่สุด แต่ก็ไม่เพียงพอที่จะต่อยอดการเรียนรู้ในโรงเรียนไทย โดยแบ่งการอภิปรายผล ดังนี้

#### 3.1 การเรียนในระดับปฐมศึกษาตอนต้น

ลูกสาวของอดีตผู้ลี้ภัยขอลี้ภัยชาวซีเรียได้เข้าเรียนในชั้นประถมศึกษาปีที่ 1 ขณะที่มีอายุได้ 9 ขวบ โดยเรียนทุกวิชาเป็นภาษาไทย ยกเว้นวิชาภาษาอังกฤษ ซึ่งเป็นวิชาเดียวที่ลูกสาวเขาเรียนรู้เรื่อง ลูกสาวเขามักจะมีปัญหาในการทำการบ้านวิชาที่เป็นภาษาไทยเสมอ ซึ่งเขาก็ไม่สามารถช่วยสอนได้ เพราะไม่เข้าใจภาษาไทย นอกจากนี้ยังพบว่าครูส่วนใหญ่ที่สอนในระดับชั้นปฐมศึกษาตอนต้นไม่สามารถอธิบายเนื้อหาการเรียนเป็นภาษาอังกฤษได้ จึงทำให้เด็กเกิดความเครียด และความรู้สึกไม่อยากจะไปโรงเรียน ซึ่งอดีตผู้ลี้ภัยชาวซีเรียคนที่ 2 ได้ให้สัมภาษณ์ไว้ดังนี้ “My daughter was put to study with the little kids that younger than her age because she needs to learn basic Thai, but many times it is hard to stay with little kids and it is very difficult for her to learn Thai. She does not understand anything!”

#### 3.2 การเรียนในระดับปฐมศึกษาตอนปลาย

อดีตผู้ลี้ภัยชาวซีเรียอีกคนได้เข้าเรียนในระดับชั้นประถมศึกษาปีที่ 4 ขณะที่เขาอายุได้ 13 ปี ด้วยเพราะเขามีหลักฐานการจบการศึกษาชั้นประถมศึกษาปีที่ 2 และ 3 มาจากประเทศซีเรีย และเจ้าหน้าที่ศูนย์ช่วยเหลือผู้ลี้ภัยกรุงเทพฯ ได้ทำการแปลเป็นภาษาอังกฤษให้กับทางโรงเรียน เขาจึงได้เข้าเรียนในระดับชั้นต่อจากที่เขาจบมา ขณะเรียนหนังสือเขาชอบวิชาคณิตศาสตร์ ภาษาอังกฤษ และพลศึกษา เพราะเป็นวิชาที่เรียนรู้เรื่อง ครูสอนสนุก และได้ทำกิจกรรม แต่มักเกิดปัญหากับวิชาที่ต้องเรียนเป็นภาษาไทย โดยเฉพาะสังคมศึกษา ภาษาไทย สุขศึกษา ศาสนาและวัฒนธรรม เขาไม่เข้าใจในเนื้อหาที่สอน และครูที่สอนในวิชาดังกล่าวก็ไม่สามารถอธิบายเขาเป็นภาษาอังกฤษได้ เวลาทำการบ้านหรือแบบฝึกหัดก็มักหลงเอยด้วยการจะลอกเพื่อน และเขาไม่สามารถทำข้อสอบได้ โดยเขาได้ให้สัมภาษณ์ไว้ว่าเคยโง่งงขอมาสอบมาแล้ว “I felt like I had to learn Thai to understand

the subjects in the school seriously. I can read, write, and speak Thai a bit, but it is still hard to understand all the details of the subject in Thai. Many times, I could not do the exams, and I used to cheat.” นอกจากนี้เขายังเคยถูกครูตำหนิและตีบ่อยครั้งเพราะขอให้เพื่อนร่วมห้องช่วยอธิบายเนื้อหาที่ครูกำลังสอนให้ฟัง

หากประเทศไทยมีนโยบายที่ให้เด็กผู้ขอลี้ภัยเรียนเหมือนกับเด็กไทยทุกประการ ดั้งนั้นการมีครูที่มีความสามารถด้านภาษาอังกฤษจึงจำเป็นอย่างมาก เพราะครูจะช่วยให้เด็กผู้ขอลี้ภัยเรียนได้อย่างเข้าใจ อันเป็นประโยชน์กับเขาทั้งในการสอบเลื่อนชั้น และการนำความรู้ที่ได้ไปปรับใช้ในชีวิตประจำวัน ข้อค้นพบดังกล่าวสะท้อนให้เห็นถึงปัญหาในการจัดการบุคลากรทางการศึกษาให้มีความพร้อมต่อการจัดการเรียนการสอนแก่เด็กผู้ขอลี้ภัย ซึ่งสอดคล้องกับงานวิจัยของ อัญชลี ศรีชมภู (2562) ที่ชี้ให้เห็นถึงข้อจำกัดของจำนวนบุคลากรทางการศึกษาที่เป็นยังเป็นข้อท้าทาย แม้ว่าปัจจุบันจะมีนโยบายรับเด็กที่ไม่มีสัญชาติไทยเข้าศึกษา แต่ก็ยังไม่ได้มีการพูดถึงการจัดการบุคลากรให้เพียงพอต่อการรองรับกับเด็กกลุ่มนี้ในโรงเรียนไทย ที่ผ่านมามีโรงเรียนต้องจัดการปัญหานี้เองเพื่อให้เด็กไทยและเด็กผู้ขอลี้ภัยสามารถเรียนร่วมกันได้ ตลอดจนลดภาระครูที่ต้องสอนซ่อมเสริมนอกเวลาเรียนปกติ และยักรวมถึงปัญหาอื่นๆ ไม่ว่าจะเป็น เด็กไม่เข้าใจบทเรียน ครูอธิบายเนื้อหาด้วยภาษาอังกฤษไม่ได้ เป็นต้น ทั้งนี้ในงานวิจัยได้เสนอแนวทางการจัดการศึกษาที่เหมาะสม โดยจัดตั้งหรือพัฒนาศูนย์การเรียนรู้ในชุมชนเดิมโดยจัดให้มีการปรับพื้นฐานทางภาษาไทยก่อนที่จะส่งต่อไปยังโรงเรียนไทย หรือจัดให้มีการสอนภาษาไทยในศูนย์การเรียนรู้ควบคู่ไปกับการเรียนในโรงเรียนไทย โดยรัฐจะต้องกำกับดูแลศูนย์เหล่านี้ให้มีมาตรฐานเดียวกัน เช่นเดียวกับประเทศนิวซีแลนด์ที่ให้ความสำคัญในการปรับพื้นฐานด้านภาษาแบบเข้มข้นตามยุทธศาสตร์การตั้งถิ่นฐานใหม่ของผู้ลี้ภัยในปี 2555 ให้มีการจัดปฐมนิเทศสำหรับผู้ลี้ภัยที่มาถึงใหม่ ซึ่งทุกคนจะได้เข้าเรียนภาษาอังกฤษ โดยเด็กเล็กสามารถเข้าเรียนในโรงเรียนหรือศูนย์การศึกษาก่อนวัยเรียนได้เลย สำหรับนักเรียนระดับมัธยมศึกษาจะต้องทำการฝึกฝนทักษะภาษาในระดับที่เข้มข้นก่อนเข้าสู่การศึกษาเชิงวิชาการต่อไป (McBrien และ Hayward, 2022) จากการศึกษาจะเห็นว่า การปูพื้นฐานทักษะทางภาษาแบบเข้มข้นเป็นสิ่งจำเป็นที่จะช่วยให้เด็กผู้ขอลี้ภัยชาวซีเรีย รวมถึงเด็กสัญชาติอื่นๆ สามารถเรียนร่วมกับเด็กท้องถิ่นได้ อีกทั้งยังช่วยให้พวกเขาสามารถปรับตัวเข้ากับสังคม และสภาพแวดล้อมในโรงเรียนได้ง่ายขึ้นอีกด้วย

#### 4. การศึกษาที่สามารถปรับใช้ในชีวิตจริง (Adaptability)

การศึกษาต้องตอบสนองต่อความต้องการของผู้เรียนแต่ละกลุ่ม และสอดคล้องกับบริบทของสังคม และชุมชนที่เปลี่ยนแปลงได้ (UNSECO, 2019).

ผลการศึกษาพบว่าความรู้ทางวิชาการที่อดีตผู้ขอลี้ภัยชาวซีเรียได้เรียนรู้ในโรงเรียนไทยไม่สามารถนำไปปรับใช้ในชีวิตประจำวันระหว่างแสวงหาที่พักพิงชั่วคราวในไทยได้ เพราะด้วยข้อจำกัดทางภาษาไทย ทำให้พวกเขาไม่เข้าใจในสิ่งที่เรียน ในขณะที่เดียวกันการเรียนในโรงเรียนไทยช่วยให้พวกเขาได้คำศัพท์ภาษาไทยที่ทำให้ใช้ชีวิตง่ายขึ้น โดยพวกเขาสามารถบอกทางคนขับรถแท็กซี่ได้ จ่ายตลาดซื้อของได้ง่ายขึ้น และทำให้พวกเขากล้าที่จะสื่อสารกับคนไทยที่มากขึ้น ที่สำคัญการเรียนในโรงเรียนยังช่วยให้พวกเขาเข้าใจวัฒนธรรม ชีวิตความเป็นอยู่ของคนไทย และพวกเขาเองก็มีประสบการณ์ที่ดีกับเพื่อนในโรงเรียนไทยที่คอยให้ความช่วยเหลือเรื่องการเรียนอยู่เสมอ

#### สรุปผลการศึกษา

ถึงแม้ประเทศไทยจะให้สิทธิในการศึกษาแก่เด็กผู้ขอลี้ภัยชาวซีเรียเช่นเดียวกับเด็กไทย แต่ด้วยนโยบายดังกล่าวไม่รองรับและสอดคล้องกับบริบทของผู้ขอลี้ภัยชาวซีเรียที่มักเผชิญข้อจำกัดทางภาษา สถานะทางการเงิน และสถานะทางกฎหมาย จึงทำให้พวกเขาไม่สามารถเข้าถึงการศึกษาได้อย่างเต็มที่ และหลุดออกจากระบบการศึกษาไทยในที่สุด

#### ข้อเสนอแนะ

##### 1. ข้อเสนอแนะต่อภาครัฐ

###### 1.1 ปฏิบัติงานอยู่

แก้ไขอุปสรรคด้านภาษา การเงิน และการเตรียมความบุคลากรครูเพื่อรองรับการเรียนการสอนให้กับเด็กผู้ขอลี้ภัย

1.2 ให้สถานะแก่ผู้ขอลี้ภัยให้สามารถอาศัยอยู่ในประเทศไทยได้เป็นการชั่วคราว เพื่อให้ผู้ปกครองและบุตรหลานสามารถเดินทางไปกลับโรงเรียนได้อย่างไม่ต้องกลัวการถูกจับกุม

##### 2. ข้อเสนอแนะในงานวิจัยครั้งถัดไป

2.1 ทำการศึกษาเกี่ยวกับการปฏิบัติใช้นโยบายการศึกษาเพื่อปวงชน (Education for All) โดยผ่านมุมมองของครู และโรงเรียน เพื่อค้นหาข้อดีข้อเสีย ตลอดจนปัญหาเพื่อหาแนวทางปรับปรุงแก้ไขที่จะเป็นประโยชน์ต่อโรงเรียนในการรับนักเรียนผู้ขอสิทธิ์เข้ามาศึกษา



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ในอสังหาริมทรัพย์และกรรมสิทธิ์ในการถือครองอสังหาริมทรัพย์

Discrimination Against Same-sex Partner in Thailand: Case Studies Regarding  
Property Ownership and the Accepting of Real Estate Benefits

กิตติ รุ่งเรือง<sup>1</sup>

Kitti Rungraung

บทคัดย่อ

การวิจัยนี้มีวัตถุประสงค์เพื่อศึกษาประสบการณ์ตรงของคู่รักเพศเดียวกันที่ถูกเลือกปฏิบัติในกิจกรรมทางเศรษฐกิจ โดยมุ่งเน้นไปที่ประเด็นการกู้ยืมซื้อบ้านและการรับผลประโยชน์จากการทำประกัน การวิจัยนี้เป็นการวิจัยเชิงคุณภาพโดยใช้การสัมภาษณ์เชิงลึกจากกลุ่มตัวอย่างจำนวน 5 คู่ โดยใช้กรอบปรากฏการณ์วิทยาศึกษาประสบการณ์ตรงของคู่รักเพศเดียวกันที่ได้รับผลกระทบจากการเลือกปฏิบัติจากบรรทัดฐานวิถีเพศวิถีชายหญิง

ผลการศึกษาพบว่า ในกระบวนการรับผลประโยชน์ในอสังหาริมทรัพย์และกรรมสิทธิ์ในการถือครองอสังหาริมทรัพย์ คู่รักเพศเดียวกันถูกเลือกปฏิบัติในกิจกรรมทางเศรษฐกิจ 3 ประเด็น ได้แก่ 1. ประสบการณ์การถูกเลือกปฏิบัติด้วยเหตุที่ไม่ได้เป็นคู่รักต่างเพศทำให้ถูกกีดกันการเข้าถึงสิทธิในการถือครองทรัพย์สินจากคนในครอบครัว สังคมรอบข้าง หรือแม้กระทั่งผู้ที่มีความสัมพันธ์ทางเศรษฐกิจด้วย โดยเฉพาะการถูกกีดกันการเข้าถึงสินเชื่อเพียงเพราะเหตุแห่งการไม่มีสถานภาพสามีภรรยาตามบรรทัดฐานการเป็นสามีภรรยาแบบคู่รักต่างเพศ (หญิง-ชาย) ในการกู้ยืมสินเชื่อ 2. ภาระหนี้สินและการจัดการทรัพย์สินมรดก สืบเนื่องจากการไม่สามารถกู้ยืมได้เฉกเช่นเดียวกับสามีภรรยาแบบคู่รักต่างเพศจึงไม่สามารถช่วยกันผ่อนจ่ายได้ คู่รักเพศเดียวกัน ส่งผลต่อความยากลำบากในการบริหารจัดการภาระหนี้สินรวมไปถึงยังมีปัญหาในเรื่องของการจัดการมรดกสืบทอดที่มีกฎหมายข้อบังคับมากกว่าคู่รักต่างเพศ 3. การถูกเลือกปฏิบัติจากการประกันภัยสินเชื่อคุ้มครองวงเงินกู้บ้านซึ่งหากเป็นคู่รักต่างเพศ ผู้กู้สามารถซื้อหลักประกันคุ้มครองสินเชื่อให้กับสามีหรือภรรยาได้โดยไม่มีเงื่อนไข แต่สำหรับคู่รักเพศเดียวกันต้องหาวิธีการในการสร้างหลักประกันให้กับคู่รักของตนหากเกิดเหตุไม่คาดคิดเพราะไม่มีสถานะสมรสแบบคู่รักต่างเพศตามกฎหมาย

<sup>1</sup> นักศึกษาปริญญาโท หลักสูตรศิลปศาสตรมหาบัณฑิต สาขาวิชาสิทธิมนุษยชนและสันติศึกษา สถาบันสิทธิมนุษยชนและสันติศึกษา มหาวิทยาลัยมหิดล

**คำสำคัญ:** การเลือกปฏิบัติ, บรรทัดฐานวิถีเพศวิถีชายหญิง, คู่รักเพศเดียวกัน, อสังหาริมทรัพย์

## **Abstract**

The objective of this research is to study the experiences of same-sex couples who faced discrimination in economic activities, focusing on joint home loan applications and insurance benefits. This qualitative research employs in-depth interviews and uses the phenomenological framework to examine the experiences of same-sex couples affected by discrimination stemming from heteronormative norms.

The findings reveal that same-sex couples face discrimination in three main areas related to real estate benefits and property ownership rights. First, same-sex couples experience barriers in accessing what they are entitled to as human beings, whether from family members, society, or economic partners, especially in the context of joint loan applications where same-sex couples are not recognized as spouses. Second, same-sex couples have more difficulties managing debt compared to heterosexual couples. The inability to apply for joint loans means they cannot assist each other in repayments, and there are additional challenges in handling inheritance matters. Third, same-sex couples need to find ways to secure their partners in case of unforeseen events without the legal marital status. Insurance products, such as Mortgage Reducing Term Assurance (MRTA), help create security for same-sex couples who do not have the legal recognition afforded to heterosexual marriages.

**Keywords:** Discrimination, Heteronormative Norms, Same-Sex Couples, Real Estate

## ที่มาและความสำคัญ

ประเทศไทยกำลังเผชิญกับความขัดแย้งในประเด็นการยอมรับสิทธิของคู่รักเพศเดียวกัน ฝ่ายอนุรักษ์นิยมและกลุ่มที่ใช้หลักการศาสนาเป็นเครื่องมือในการกีดกันสิทธิของคนที่มีความหลากหลายทางเพศ พยายามขัดขวางการผ่านร่างพระราชบัญญัติสมรสเท่าเทียม โดยผลักดันให้มีเพียงร่างพระราชบัญญัติคู่ชีวิต ซึ่งเป็นกฎหมายที่จำกัดสิทธิของคู่รักเพศเดียวกันและไม่ให้การยอมรับอย่างเท่าเทียมกับคู่รักต่างเพศ ความพยายามในการคว่ำบาตรร่างพระราชบัญญัติสมรสเท่าเทียมสะท้อนให้เห็นถึงอุดมการณ์ลัทธิวิเทศที่ยังคงฝังรากลึกในสังคมไทย ซึ่งมองว่าครอบครัวที่สมบูรณ์แบบควรประกอบด้วยพ่อ แม่ และลูก ตามกรอบแนวคิดแบบชายหญิงเท่านั้น การมองเช่นนี้เป็นการกีดกันสิทธิของคู่รักเพศเดียวกันและบุคคลที่มีความหลากหลายทางเพศ ไม่ให้สามารถสร้างครอบครัวและมีชีวิตคู่ที่ได้รับการยอมรับและคุ้มครองทางกฎหมายอย่างเท่าเทียม ซึ่งขัดต่อหลักการพื้นฐานที่ระบุไว้ในข้อ 16 ของปฏิญญาสากลว่าด้วยสิทธิมนุษยชน (UDHR) ที่ว่า "ชายหญิงเมื่อมีอายุถึงวัยอันสมควร มีสิทธิสมรสและสร้างครอบครัว โดยไม่คำนึงถึงเชื้อชาติ สัญชาติ หรือศาสนา" โดยหลักการนี้ควรครอบคลุมถึงคู่รักทุกเพศสภาพ

ความไม่เท่าเทียมทางกฎหมายที่คู่รักเพศเดียวกันต้องเผชิญส่งผลกระทบต่อสิทธิและโอกาสต่าง ๆ ในชีวิต ตั้งแต่สิทธิในการรับมรดก สิทธิในการเบิกจ่ายค่ารักษาพยาบาล สิทธิในการลดหย่อนภาษีบุตรบุญธรรม สิทธิในการใช้นามสกุลร่วมกัน ไปจนถึงสิทธิในการขอวีซ่าเดินทางร่วมกัน ซึ่งเป็นการละเมิดสิทธิในชีวิต เสรีภาพ และความมั่นคงแห่งบุคคล ตามที่ระบุไว้ในข้อ 3 ของ UDHR รวมทั้งสิทธิที่จะเข้าถึงสินเชื่อเพื่อมีที่อยู่อาศัยเป็นของตนเองและคู่รัก แม้ว่าบางธนาคารเอกชนในประเทศไทยจะเริ่มเปิดโอกาสให้คู่รักเพศเดียวกันสามารถกู้ร่วมสำหรับสินเชื่อเพื่อที่อยู่อาศัยได้ แต่ก็ยังมีอุปสรรคสำคัญที่ขัดขวางความเท่าเทียมในการเข้าถึงสินเชื่ออยู่ นั่นคือ ข้อกำหนดทางด้านเอกสารที่ยังคงยึดโยงกับกฎหมายการสมรสที่ยังไม่รองรับคู่สมรสเพศเดียวกัน ซึ่งเป็นการละเมิดสิทธิในทรัพย์สินตามข้อ 17 ของปฏิญญาสากลว่าด้วยสิทธิมนุษยชน (UDHR) ที่ระบุว่า "บุคคลใดๆ ย่อมมีสิทธิในทรัพย์สินทั้งส่วนตัวและส่วนรวม คู่รักเพศเดียวกันนอกจากไม่มีสิทธิในการสร้างครอบครัวแล้ว ยังเจอปัญหาในเรื่องสิทธิในทรัพย์สินส่วนตัว ในขณะที่ประเทศไทยมีพระราชบัญญัติความเท่าเทียมทางเพศ พ.ศ. 2558 ที่มุ่งคุ้มครองสิทธิของบุคคลที่มีความหลากหลายทางเพศ แต่ก็ยังไม่มีความหมายเฉพาะที่ให้การรับรองสถานะทางกฎหมายของคู่รักเพศเดียวกันอย่างชัดเจน

ข้อกำหนดในการแสดงเอกสารการสมรสตามกฎหมายจึงกลายเป็นอุปสรรคสำคัญสำหรับคู่รักเพศเดียวกันที่ต้องการกู้ร่วมซื้อบ้าน แม้ว่าพวกเขาจะมีความสัมพันธ์ที่มั่นคงและมีแผนการเงินที่ชัดเจน แต่ก็ไม่สามารถเข้าถึงสิทธิประโยชน์ทางการเงินได้อย่างเท่าเทียมกับคู่รักต่างเพศ สถานการณ์นี้สะท้อนให้เห็นถึงความจำเป็นในการปรับปรุงกฎหมายและนโยบายที่เกี่ยวข้อง เพื่อให้สอดคล้องกับหลักการความเท่าเทียมและไม่เลือกปฏิบัติทางเพศ

สภาพ การแก้ไขปัญหานี้จะช่วยให้คู่รักเพศเดียวกันสามารถเข้าถึงสิทธิในการมีที่อยู่อาศัยและสร้างครอบครัวได้อย่างเท่าเทียมและมีศักดิ์ศรีความเป็นมนุษย์

งานวิจัยนี้มุ่งเน้นศึกษาผลกระทบของการเลือกปฏิบัติทางกฎหมายต่อสิทธิในการกู้ซื้อบ้านและทำประกันชีวิตร่วมกันของคู่รักเพศเดียวกัน โดยแบ่งความเสียหายออกเป็นสองส่วนหลัก คือ ความเสียหายต่อสิทธิในการกู้ซื้อบ้านร่วมกัน และความเสียหายต่อสิทธิในการเป็นผู้รับผลประโยชน์จากประกันคุ้มครองสินเชื่อบ้าน เนื่องจากกฎหมายไทยยังไม่รองรับสถานะคู่ชีวิตของคนเพศเดียวกัน ทำให้คู่รักเพศเดียวกันไม่สามารถรับมรดกจากกันได้แม้จะอาศัยและผ่อนชำระค่าบ้านร่วมกัน เนื่องจากไม่ถือเป็นทายาทโดยธรรมตามประมวลกฎหมายแพ่งและพาณิชย์

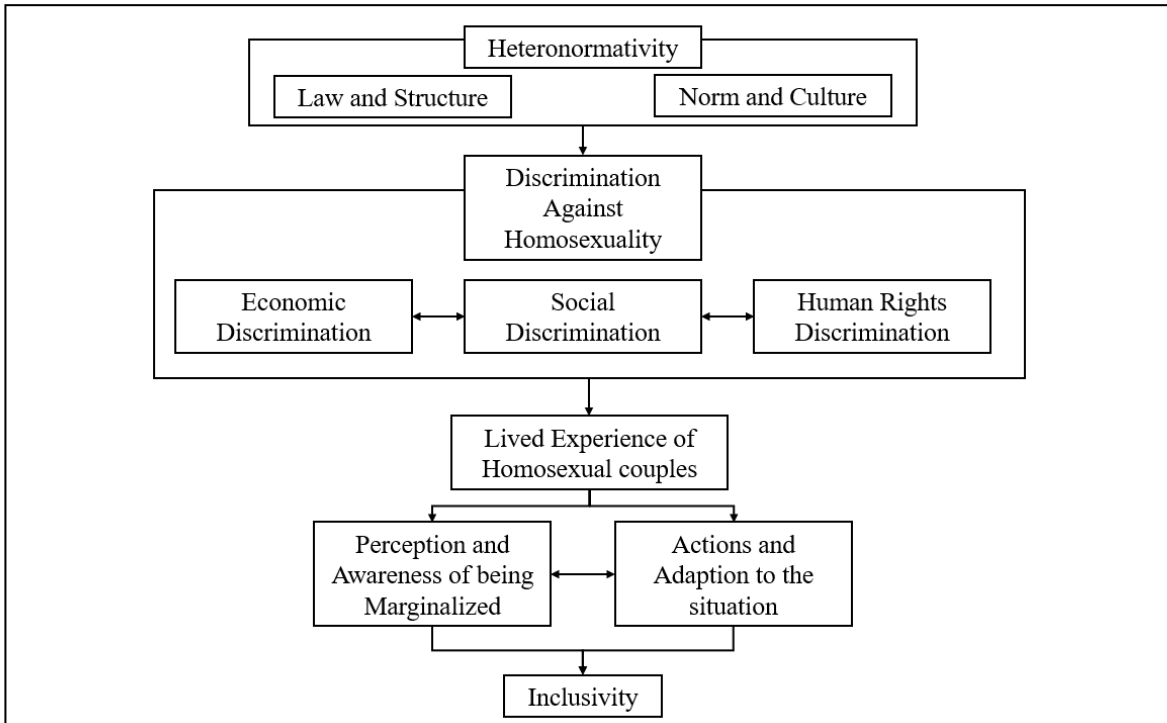
### คำถามวิจัย

ในเรื่องของการกู้ซื้ออสังหาริมทรัพย์ คู่รักเพศเดียวกันมีประสบการณ์การถูกเลือกปฏิบัติด้วยเหตุทางเพศอย่างไรบ้างทั้งในแง่ของการถูกเลือกปฏิบัติในประเด็นด้านภาระหนี้สินและการประกันภัย

### วัตถุประสงค์การวิจัย

เพื่อศึกษาสาเหตุสำคัญสำหรับการเลือกปฏิบัติของคู่รักเพศเดียวกัน ในประเด็นด้านภาระหนี้สินและการประกันภัย

### กรอบแนวคิดและทฤษฎีที่เกี่ยวข้อง



(ผู้วิจัย, 2567)

ในการศึกษานี้ มุ่งเน้นไปที่ การศึกษาผลกระทบของความเชื่อแบบบรรทัดฐานรักต่างเพศ (Heteronormativity) ต่อประสบการณ์ชีวิตของคู่รักเพศเดียวกัน ผู้ที่ความพยายามในการกู้ชื่อเสียง ความเชื่อแบบบรรทัดฐานรักต่างเพศดำรงอยู่และแฝงอยู่ในความสัมพันธ์ที่เป็นทางการ เช่น กฎหมาย สถาบัน เป็นต้น และความสัมพันธ์ที่ไม่เป็นทางการ เช่น ความเชื่อ บรรทัดฐาน เป็นต้น อันนำมาสู่การเลือกปฏิบัติต่อคู่รักเพศเดียวกัน (Discrimination against homosexuality) โดยสำรวจการเลือกปฏิบัติทั้งทางเศรษฐกิจ สังคม และสิทธิมนุษยชน (Economic discrimination, social discrimination และ human rights discrimination) ทั้งนี้ การเลือกปฏิบัติทั้งสามลักษณะมีความทับซ้อนและอาจไม่สามารถจัดประเภทให้แยกขาดออกจากกันได้ (Non-mutually exclusive)

การเลือกปฏิบัติต่อคู่รักเพศเดียวกันใน “การทำธุรกรรมทางการเงิน” ซึ่งในกรณีศึกษานี้คือการซื้อชื่อเสียง นำมาสู่ประสบการณ์ชีวิตจริง (Lived experience) ของพวกเขาในสังคมที่มีแนวโน้มดังกล่าว การศึกษานี้จึงมุ่งสำรวจและวิเคราะห์ว่าคู่รักเหล่านี้รับรู้และตระหนักถึงการถูกกีดกันอย่างไร (perception and awareness of being marginalized) และพวกเขามีการปรับตัวและดำเนินการอย่างไรเพื่อรับมือกับสถานการณ์เหล่านี้ (actions and adaption to the situation) ซึ่งจะช่วยให้เข้าใจความท้าทายและความต้องการของพวกเขาในการส่งเสริมความเท่าเทียมและการยอมรับในสังคมได้ดียิ่งขึ้น (inclusivity)



## วิธีการวิจัยและขอบเขตในการศึกษา

วิธีการเลือกใช้ในการเข้าถึงกลุ่มตัวอย่างนั้นผู้วิจัยจะใช้การเข้าถึงกลุ่มตัวอย่างตาม การสุ่มตัวอย่างแบบเจาะจงจำนวน 5 คู่ ที่ได้มีการทำประกันเพื่อเป็นผู้รับผลประโยชน์ของประกันรวมทั้งผู้เอาประกันคุ้มครองสินเชื่อ บ้าน โดยการศึกษาจะใช้กรอบแนวคิดทฤษฎีปรากฏการณ์วิทยา (Phenomenology) เพื่อทำความเข้าใจประสบการณ์ชีวิตของคู่รักเพศเดียวกันอย่างลึกซึ้ง โดยเน้นการสำรวจและตีความประสบการณ์ที่พวกเขาเผชิญ เพื่อให้เข้าใจถึงคุณค่าและความหมายที่พวกเขาให้กับประสบการณ์เหล่านั้น รวมถึงการรับรู้ทั้งภายในและภายนอกจิตใจของพวกเขา ปรากฏการณ์วิทยาช่วยให้เราเข้าใจโลกทัศน์และมุมมองของคู่รักเพศเดียวกันได้อย่างลึกซึ้ง โดยไม่ตัดสินหรือตีความตามกรอบความคิดเดิม ๆ ที่สังคมยึดถือ การศึกษาในลักษณะนี้เปิดโอกาสให้คู่รักเพศเดียวกันได้เล่าเรื่องราวและประสบการณ์ของพวกเขาเอง ทำให้เราเข้าใจถึงปัญหา อุปสรรค ความรู้สึก และความหมายที่พวกเขาให้กับเหตุการณ์ต่างๆ ในชีวิต การใช้ปรากฏการณ์วิทยาในการศึกษารังนี้จึงเป็นเครื่องมือสำคัญที่จะช่วยให้เราเข้าใจความเป็นจริงของคู่รักเพศเดียวกันในสังคมไทยได้อย่างลึกซึ้งและครอบคลุม เพื่อนำไปสู่การพัฒนาแนวทางแก้ไขปัญหาและสร้างความเท่าเทียมให้กับคนที่มีความหลากหลายทางเพศในสังคม

## ผลการศึกษา

ในกระบวนการรับผลประโยชน์ในอสังหาริมทรัพย์และกรรมสิทธิ์ในการถือครองอสังหาริมทรัพย์ คู่รักเพศเดียวกันมักประสบกับอุปสรรคและความไม่เท่าเทียมอันเนื่องมาจากการเลือกปฏิบัติ ซึ่งส่งผลกระทบต่อความมั่นคงทางการเงินและความมั่นคงในชีวิตของพวกเขา การเลือกปฏิบัตินี้ครอบคลุมหลายด้าน ซึ่งทั้งหมดนี้เป็นประเด็นที่ต้องได้รับการแก้ไขเพื่อสร้างความเท่าเทียมและเป็นธรรมให้กับคู่รักทุกเพศสภาพ คู่รักเพศเดียวกันถูกเลือกปฏิบัติใน 3 ประเด็น ได้แก่

### 1. ประสบการณ์การถูกเลือกปฏิบัติด้วยเหตุแห่งเพศ

การที่คู่รักไม่ได้เป็นคู่รักต่างเพศส่งผลให้พวกเขาต้องเผชิญกับอุปสรรคและการกีดกันจากคนในครอบครัว สังคมรอบข้าง หรือแม้กระทั่งผู้ที่มีความสัมพันธ์ทางเศรษฐกิจด้วย ทำให้พวกเขาไม่สามารถเข้าถึงหรือได้รับสิทธิประโยชน์ที่ควรจะได้รับในฐานะมนุษย์คนหนึ่งได้อย่างเต็มที่ ซึ่งเป็นการละเมิดหลักการไม่เลือกปฏิบัติตามข้อ 2 ของปฏิญญาสากลว่าด้วยสิทธิมนุษยชน และสร้างความเหลื่อมล้ำในสังคม หลักการไม่เลือกปฏิบัตินั้นถูกละเมิดในประเทศไทยที่ลงนามปฏิญญาสากลว่าด้วยสิทธิมนุษยชนของสหประชาชาติกว่าครึ่งศตวรรษ รัฐไทยอนุญาตให้เกิดการเลือกปฏิบัติในรัฐธรรมนูญอันเป็นกฎหมายสูงสุดของประเทศ ในกรณีนี้คือด้วยความแตกต่างทางเพศ การเลือกปฏิบัติดังกล่าวสร้างความเหลื่อมล้ำในสังคมและส่งผลกระทบต่อคุณภาพชีวิตของคู่รักเพศเดียวกันอย่างมาก

โดยเฉพาะอย่างยิ่งในเรื่องของสถานะทางกฎหมายที่ยังไม่รองรับการสมรสหรือการจดทะเบียนคู่ชีวิตของคนเพศเดียวกัน ส่งผลให้เกิดปัญหาในการกู่มีสินเชื่อกัน การรับมรดก หรือการตัดสินใจทางการแพทย์แทนกันได้ ซึ่งเป็นการละเมิดสิทธิมนุษยชนขั้นพื้นฐานและสร้างความเหลื่อมล้ำในสังคม ผลการวิจัยจากการสัมภาษณ์เชิงลึกของคู่รักเพศเดียวกันส่วนนี้จะแบ่งประสบการณ์การถูกเลือกปฏิบัติด้วยเหตุทางเพศออกเป็น 3 มิติด้วยกัน ได้แก่ มิติทางสังคม มิติทางกฎหมาย และมิติทางเศรษฐกิจ การจัดประเภทการถูกเลือกปฏิบัติทั้ง 3 มิติเช่นนี้อยู่บนสมมติฐานที่การเลือกปฏิบัติแต่ละมิติมีความเชื่อมโยงเกี่ยวพันกันและไม่สามารถแยกออกจากกันได้

มิติทางสังคม การยอมรับและเปิดกว้างทางอัตลักษณ์ทางเพศที่หลากหลายยังคงเป็นประเด็นที่ท้าทายสำหรับคู่รักเพศเดียวกัน หลายครอบครัวยังไม่สามารถยอมรับหรือทำความเข้าใจกับความแตกต่างทางเพศของลูกหลานได้อย่างเต็มที่ ซึ่งอาจทำให้บุคคลที่มีความหลากหลายทางเพศไม่กล้าเปิดเผยตัวตนที่แท้จริงกับครอบครัว ส่งผลให้บ้านไม่ใช่พื้นที่ปลอดภัยหรือพื้นที่ที่พวกเขาสามารถสร้างครอบครัวของตนเองได้อย่างอิสระและมีความสุข “สำหรับผมแล้วการยอมรับคนที่มีความหลากหลายทางเพศเป็นการยอมรับแบบมีเงื่อนไขที่กำลังเปลี่ยนแปลง แต่ไม่ใช่การเปลี่ยนแปลงแล้ว” (ผู้ให้สัมภาษณ์คนที่ 2) ในปัจจุบัน ความรักของคนที่มีความหลากหลายทางเพศยังคงไม่ได้รับการยอมรับอย่างกว้างขวางทั้งในสังคมและในครอบครัว แม้ว่าสังคมจะมีการเปลี่ยนแปลงอยู่ตลอดเวลา และทัศนคติต่อความหลากหลายทางเพศก็มีแนวโน้มที่จะเปิดกว้างมากขึ้น แต่ก็ยังคงมีอุปสรรคและความท้าทายอยู่มาก การเปลี่ยนแปลงในทางที่ดีขึ้นนี้เป็นผลมาจากการต่อสู้เรียกร้องสิทธิและศักดิ์ศรีความเป็นมนุษย์ที่เท่าเทียมกันของคนที่มีความหลากหลายทางเพศ ซึ่งเป็นการต่อสู้ที่ดำเนินมาอย่างยาวนานและยังคงต้องดำเนินต่อไป เพื่อให้สังคมยอมรับและเคารพในความแตกต่างทางเพศอย่างแท้จริง (บรรเจิด สิงคะเนติ, 2555)

อย่างไรก็ตาม การเปลี่ยนแปลงดังกล่าวยังคงต้องดำเนินต่อไป เพื่อให้สอดคล้องกับแนวคิดของปรัชญาสันติภาพและเป้าหมายการพัฒนาขององค์การสหประชาชาติ ที่มุ่งสู่ "สังคมเพื่อคนทั้งมวล" (Inclusive Society) ซึ่งเป็นสังคมที่ยอมรับความหลากหลายทั้งดงาม และปราศจากการเลือกปฏิบัติในทุกรูปแบบ สถาบันครอบครัวถือเป็นหน่วยย่อยสำคัญของสังคม เมื่อสังคมเพื่อคนทั้งมวลเกิดขึ้น การยอมรับคนที่มีความหลากหลายทางเพศภายในครอบครัวก็จะได้รับการเปลี่ยนแปลงไปในทิศทางที่ดีขึ้น โดยปราศจากเงื่อนไขหรือการเลือกปฏิบัติใด ๆ โดยเฉพาะอย่างยิ่งเงื่อนไขที่เกี่ยวข้องกับเพศสภาพของคู่รักเพศเดียวกัน หรือบุคคลที่มีความหลากหลายทางเพศ

คำกล่าวที่ว่า "การเลือกซื้อคอนโดนั้นเพื่อให้เป็นพื้นที่ปลอดภัย เพราะต้องการหาที่ให้คนอื่นสบายใจและเราเองก็สบายใจด้วย" ของผู้ให้สัมภาษณ์คนที่ 2 สะท้อนให้เห็นถึงความหมายที่ลึกซึ้งของ "พื้นที่ปลอดภัย" สำหรับคู่รักเพศเดียวกันนี้ พื้นที่ปลอดภัยไม่ได้หมายถึงเพียงแค่การที่พวกเขาสามารถแสดงออกถึงอัตลักษณ์ทางเพศของ

ตนเองได้อย่างอิสระและไม่ต้องหวาดกลัวการถูกตัดสินหรือเลือกปฏิบัติจากครอบครัวเท่านั้น แต่ยังหมายถึงพื้นที่ที่พวกเขาสามารถเป็นตัวของตัวเองได้อย่างเต็มที่ โดยไม่ต้องกังวลว่าจะทำให้คนอื่นรู้สึกอึดอัดหรือไม่สบายใจ

ผู้ให้สัมภาษณ์คู่นี้ได้ขยายนิยามของพื้นที่ปลอดภัยออกไปให้ครอบคลุมถึงความสบายใจของทั้งตนเองและครอบครัว ซึ่งแสดงให้เห็นถึงความใส่ใจและความรับผิดชอบต่อสังคมของพวกเขา พวกเขาต้องการสร้างพื้นที่ที่ทุกคนสามารถอยู่ร่วมกันได้อย่างมีความสุขและเคารพในความแตกต่างของกันและกัน “เป็นพื้นที่ที่ไม่มีสายตาของคนอื่นเข้ามามองหรือยุ่งเกี่ยว การอยู่อย่างไม่ต้องคอยระแวงสายตาคคนอื่นในพื้นที่ปลอดภัยพื้นที่ใหม่นี้ทำให้พวกเขาอยู่แล้วสบายใจ” (ผู้ให้สัมภาษณ์คู่นี้ 2) สะท้อนให้เห็นถึงความสำคัญของ "ความเป็นส่วนตัว" และ "อิสรภาพ" ในการสร้างครอบครัวของคู่รักเพศเดียวกัน สำหรับผู้ให้สัมภาษณ์คู่นี้ ความสบายใจที่เกิดจากการมีพื้นที่ปลอดภัยที่ปราศจากการจับจ้องหรือแทรกแซงจากสังคมภายนอก ถือเป็นปัจจัยสำคัญที่ช่วยส่งเสริมความสัมพันธ์และความสุขในชีวิตคู่ของพวกเขา ความสบายใจนี้ไม่ได้จำกัดอยู่แค่คู่รักเพศเดียวกันเท่านั้น แต่ยังรวมถึงคู่รักทุกคู่ที่ต้องการสร้างครอบครัวในสภาพแวดล้อมที่เปิดกว้าง ยอมรับ และเคารพในความแตกต่างหลากหลายทางเพศสภาพ ความสบายใจในที่นี้ ไม่ได้หมายถึงเพียงแค่การหลีกเลี่ยงการถูกเลือกปฏิบัติหรือการตัดสินจากสังคมเท่านั้น แต่ยังหมายถึงการมีอิสระในการแสดงออกถึงความรักและความผูกพันต่อกันอย่างเปิดเผยและเป็นธรรมชาติ โดยปราศจากความกดดันหรือความรู้สึกไม่ปลอดภัยใด ๆ

มิติทางกฎหมาย ประสพการณ์ของหนึ่งในผู้ให้สัมภาษณ์คู่นี้ 5 สะท้อนให้เห็นถึงความรู้สึกไม่เท่าเทียมและความคับข้องใจที่คู่รักเพศเดียวกันต้องเผชิญเมื่อต้องการกู้คืนเชื้อเพื่อที่อยู่อาศัยร่วมกัน เนื่องจากข้อจำกัดทางกฎหมายที่ยังไม่รองรับสิทธิของพวกเขาอย่างเต็มที่ ผู้ให้สัมภาษณ์คู่นี้ 5 แสดงความปรารถนาที่จะสร้างครอบครัวและมีชีวิตคู่ที่มั่นคงเช่นเดียวกับคู่รักต่างเพศ โดยต้องการมีบ้านที่ดีในสภาพแวดล้อมและสังคมที่ดีขึ้นร่วมกัน แต่กลับต้องเผชิญกับอุปสรรคทางกฎหมายที่ทำให้ไม่สามารถกู้คืนเชื้อร่วมกันได้ ทำให้พวกเขาต้องลดทอนความต้องการของตนเองลงและยอมจำนนต่อสถานการณ์ “ก็เหมือนว่าความไม่เท่าเทียมมัย เราเป็นชีวิตคู่ เราใช้ชีวิตคู่อยากลงหลักปักฐานด้วยกัน ช่วยกันสร้าง ช่วยกันซื้อ กันผ่อนบ้านที่มั่นคง ไปอยู่ในสภาพสิ่งแวดล้อมที่ดี สังคมที่ดีกว่านี้ พอในเมื่อมันไม่ได้ เราต้องลดทอน ภาวะจำยอมจำใจ” (ผู้ให้สัมภาษณ์คู่นี้ 5)

ถ้าเกิดมีความเท่าเทียมเท่ากัน มีกฎหมายมารองรับ มันไม่ใช่แค่เรื่องบ้านใจ เจ็บป่วยมันจะได้เซ็นต์แทนกันได้ ชีวิตคู่อะ ในเมื่อที่เราเลือกที่จะอยู่กับคนนี้ แต่ว่าเพราะว่าเราเป็นเดียวกันหรือ เลยทำให้สิ่งที่ชายหญิงทำกันไม่ได้ เรามองไปถึงอนาคตข้างหน้า ญาติพี่น้องตายก่อนหมด เราอยู่กันสองคน ลูกก็ไม่มี แล้วยังงี้ต่อ มรดกแบ่งยังงี้ (ผู้ให้สัมภาษณ์คู่นี้ 5)

ประสพการณ์สะท้อนให้เห็นถึงการเลือกปฏิบัติต่อคู่รักเพศเดียวกันในสังคมไทย ทั้งในด้านกฎหมายและบรรทัดฐานทางสังคม โดยเฉพาะอย่างยิ่งในการเข้าถึงสิทธิขั้นพื้นฐาน เช่น การกู้รวมซื้อบ้าน แม้การทุนจะมองว่าความรัก

และการใช้ชีวิตของคุณไม่ต่างจากคู่รักต่างเพศ แต่ก็ต้องเผชิญอุปสรรคจากกฎหมายที่ไม่รองรับสิทธิของคู่รักเพศเดียวกัน ความเหลื่อมล้ำนี้ไม่ได้มีเพียงมิติทางกฎหมายเท่านั้น แต่ยังขยายไปสู่มิติทางเศรษฐกิจและสังคม ซึ่งซ้ำเติมการเลือกปฏิบัติที่มีอยู่เดิมในกฎหมาย

มิติทางเศรษฐกิจ จากบทสัมภาษณ์ของผู้ให้สัมภาษณ์คู่ที่ 4 สะท้อนให้เห็นว่ากฎหมายไทย โดยเฉพาะอย่างยิ่งมาตรา 1448 แห่งประมวลกฎหมายแพ่งและพาณิชย์ ที่บัญญัติเอาไว้เพียงบุคคลเฉพาะเพศชาย กับเพศหญิงเท่านั้นที่จะสามารถสมรสกันได้เมื่อบรรลุนิติภาวะ หรือโดยผลของของกฎหมาย ทั้งที่มีทะเบียนสมรสหรืออยู่กินกันฉันท์สามีภรรยาเป็นที่ประจักษ์ต่อสังคมหรือที่เรียกว่าการสมรสไม่จดทะเบียน ยังคงเป็นอุปสรรคสำคัญที่กีดกันผู้มีความหลากหลายทางเพศในการเข้าถึงสิทธิและโอกาสทางเศรษฐกิจอย่างเท่าเทียม แม้ว่าบุคคลเหล่านี้จะมีความรับผิดชอบและศักยภาพในการทำธุรกรรมทางการเงินไม่ต่างจากบุคคลทั่วไป แต่ก็ยังถูกเลือกปฏิบัติเพียงเพราะเหตุแห่งเพศสภาพ ซึ่งเป็นการลดทอนคุณค่าและศักดิ์ศรีความเป็นมนุษย์

รู้สึกว่าเป็นข้อจำกัดเกินไป ด้วยความที่ว่าทุกคนรับผิดชอบได้ทั้งหมด ไม่ว่าจะเขาจะเป็นเพศไหน เขาก็ต้องมีการวางแผน ถ้าเกิดว่าไม่มั่นใจ ก็เหมือนกับลดความเป็นคน เขาก็อาจจะไม่ได้มองในส่วนของเขา ก็คนนะ เขาก็ทำมาหากินเหมือนกันนะ ก็ควรที่จะมีสิทธิเหมือนกัน ในเมื่อมันมี statement มีหลักหลาย ๆ อย่างที่กล่าวจะยืนยันกับธนาคาร กล่าวที่จะเป็นลูกค้าของคุณ (ผู้ให้สัมภาษณ์คู่ที่ 4)

ประสบการณ์ของผู้ให้สัมภาษณ์คู่ที่ 4 สะท้อนให้เห็นถึงความรู้สึกไม่เท่าเทียมและการถูกละเมิดศักดิ์ศรีความเป็นมนุษย์ที่เกิดขึ้นจากการเลือกปฏิบัติทางเพศสภาพในการเข้าถึงบริการทางการเงิน โดยเฉพาะอย่างยิ่งในการขอสินเชื่อเพื่อที่อยู่อาศัย ความรู้สึกนี้เกิดจากการที่หนึ่งไม่ได้รับการปฏิบัติอย่างเท่าเทียมกับลูกค้าคนอื่น ๆ เพียงเพราะเธอเป็นเลสเบียน ซึ่งเป็นกลุ่มที่มีความเสี่ยงสูงที่จะถูกเลือกปฏิบัติในการเช่าและซื้อขายอสังหาริมทรัพย์ (Romero et al., 2563) การเลือกปฏิบัติดังกล่าวส่งผลกระทบต่อความรู้สึกของหนึ่ง ทำให้เธอรู้สึกว่าตนเองเป็นคนนอกและแตกต่างจากคนอื่น ซึ่งเป็นการละเมิดศักดิ์ศรีความเป็นมนุษย์ของเธออย่างร้ายแรง

เขาไม่ได้มองเราในความเป็นคนไง เขามองในตัวแค่เพศ เราแตกต่าง แต่ไม่ได้มองว่าศักยภาพเราก็อ่เท่ากับคนทั่วไป ก็เลยแบบ เหมือนแบบแบ่งชนชั้นมัย ถ้าเขาเป็นหญิงแท้ชายแท้ เขาเต็มกำลังร้อยเปอร์เซ็นต์ได้แล้วของเราคือได้แค่แบบ 70 80 ทั้ง ๆ ที่เราก็อ่ทำหลาย ๆ อย่างมาได้เกินครึ่งแล้ว (ผู้ให้สัมภาษณ์คู่ที่ 4)

แนวคิดทวิเพศ (binary gender) ที่สังคมยึดถือเป็นบรรทัดฐานหลัก กลายเป็นอุปสรรคสำคัญที่กีดกันคู่รักเพศเดียวกันและบุคคลที่มีความหลากหลายทางเพศ ไม่ให้สามารถแสดงออกถึงตัวตนที่แท้จริงได้อย่างอิสระ พวกเขาถูกบังคับให้ต้องปรับตัวและดำเนินชีวิตตามกรอบที่สังคมกำหนด เพื่อให้ได้รับการยอมรับจากครอบครัว แม้ว่าการยอมรับนั้นจะเป็นไปอย่างมีเงื่อนไขก็ตาม สำหรับคู่รักเพศเดียวกันที่ไม่สามารถทนอยู่ภายใต้กรอบความคิดที่จำกัดนี้ได้ หรือครอบครัวไม่สามารถเปิดรับความแตกต่างทางเพศของพวกเขา การสร้าง "พื้นที่ปลอดภัย" จึงกลายเป็น

ทางออกที่สำคัญ พวกเขาเลือกที่จะซื้อสังหาริมทรัพย์เพื่อใช้เป็นพื้นที่ส่วนตัว ที่ซึ่งพวกเขาสามารถแสดงออกถึงความรักและตัวตนได้อย่างอิสระ ปราศจากการตัดสินหรือกดดันจากสังคมภายนอก แม้ว่าพื้นที่นี้จะเป็นเพียงพื้นที่สำหรับ "รักลับๆ" ก็ตาม

## 2. ภาระหนี้สิน

คู่รักเพศเดียวกันต้องเผชิญกับความยากลำบากและความซับซ้อนในการบริหารจัดการภาระหนี้สินมากกว่าคู่รักต่างเพศ เนื่องจากข้อจำกัดทางกฎหมายและการเลือกปฏิบัติที่ยังคงมีอยู่ในสังคมไทย การไม่สามารถกู้รวมซื้อบ้านได้ ทำให้คู่รักเพศเดียวกันต้องแบกรับภาระหนี้สินเพียงลำพัง หรือต้องหาทางออกอื่นๆ ที่อาจมีความเสี่ยงและไม่มั่นคง นอกจากนี้ ปัญหาเรื่องการจัดการมรดกสืบทอดยังเป็นอีกหนึ่งความกังวลสำคัญที่คู่รักเพศเดียวกันต้องเผชิญ เนื่องจากกฎหมายยังไม่รองรับสิทธิของพวกเขาอย่างเต็มที่ นอกจากนี้การเลือกปฏิบัติทางด้านนโยบายนั้นเป็นอีกส่วน เมื่อพิจารณาถึงนโยบายการเงินสาธารณะและวงจรรายนโยบายสาธารณะ (Public Finance and Public Policy Cycle) โดยการดำเนินการของธนาคารแห่งประเทศไทยที่ได้กำหนดกฎเกณฑ์และข้อจำกัดในการกู้สินเชื่อเพื่อที่อยู่อาศัยนั้นเริ่มมีความเปลี่ยนแปลงทางด้านนโยบายภายหลังสถานการณ์การแพร่ระบาดของเชื้อโควิด-19 ด้วยการกำหนดนโยบาย (Policy Formulation) ให้คู่รักเพศเดียวกันสามารถกู้สินเชื่อเพื่อที่อยู่อาศัยในลักษณะร่วมกันและสามารถถือครองกรรมสิทธิ์ร่วมกันได้ กำหนดให้ธนาคารอาคารสงเคราะห์ซึ่งเป็นธนาคารภาครัฐที่มีพันธกิจเฉพาะสามารถนำบทบัญญัติตามประมวลกฎหมายแพ่งและพาณิชย์มาตรา 1448 มาปรับใช้ (Implementation) โดยอนุโลมกับคู่รักเพศเดียวกัน ก่อนการประกาศใช้พระราชบัญญัติสมรสเท่าเทียม พ.ศ. ... อย่างไรก็ตามคู่รักเพศเดียวกันก็ยังคงประสบกับความท้าทายเมื่อต้องกู้สินเชื่อเพื่อที่อยู่อาศัยกับธนาคารพาณิชย์ที่ยังคงกำหนดกฎเกณฑ์และข้อจำกัดในการกู้สินเชื่อแบบร่วมกันที่แตกต่างกันระหว่างคู่รักเพศเดียวกันกับคู่รักต่างเพศ

ความยากลำบากในการเข้าถึงสินเชื่อและการแบกรับภาระหนี้สินนี้สะท้อนให้เห็นถึงความไม่เท่าเทียมทางเศรษฐกิจที่คู่รักเพศเดียวกันต้องเผชิญ ซึ่งเป็นผลมาจากการเลือกปฏิบัติทางเพศที่ฝังรากลึกในสังคมไทย การแก้ไขปัญหานี้จำเป็นต้องอาศัยการเปลี่ยนแปลงทั้งในระดับกฎหมายและทัศนคติทางสังคม เพื่อให้คู่รักเพศเดียวกันสามารถเข้าถึงสิทธิและโอกาสทางเศรษฐกิจได้อย่างเท่าเทียมและเป็นธรรม

“ภาระหนี้สินที่ผ่อนบ้านเหมือนกับหนี้ทั้งชีวิต” (ผู้ให้สัมภาษณ์คนที่ 2) แม้ว่าผู้ให้สัมภาษณ์คนที่ 2 จะพูดถึงประเด็นภาระหนี้ด้วยท่าทีขำขัน แต่จากการวิเคราะห์ข้อมูลเชิงลึก ผู้วิจัยพบว่าเบื้องหลังเสียงหัวเราะนั้นมีความจริงจังและหนักแน่นซ่อนอยู่ ภาระหนี้ที่เกิดจากการซื้อสังหาริมทรัพย์ โดยเฉพาะที่อยู่อาศัยที่มีมูลค่าสูง ทำให้กำลังซื้อของผู้คนส่วนใหญ่ที่มักมีรายได้ระดับปานกลางหรือต่ำกว่านั้นลดลงอย่างมาก สถานการณ์นี้สะท้อนให้เห็นถึงความเหลื่อมล้ำทางเศรษฐกิจในสังคมไทย “รวยกระจุก จนกระจาย” เมื่อประชากรส่วนใหญ่เป็นคนที่มีความฐานะ

ปานกลางและยากจน (ภูเบศร์ และคณะ, 2560) ที่คนรวยมีทรัพย์สินมากมาย ขณะที่คนส่วนใหญ่ยังคงต้องดิ้นรนกับภาระหนี้สินและค่าครองชีพที่สูงขึ้น ซึ่งเป็นปัญหาที่ภาครัฐและสังคมต้องร่วมกันแก้ไข เพื่อให้ทุกคนมีโอกาสเข้าถึงที่อยู่อาศัยและมีคุณภาพชีวิตที่ดีขึ้นอย่างเท่าเทียมกัน

ฐานเงินเดือนมีบทบาทสำคัญในการกำหนดความสามารถในการจัดการภาระหนี้สินของคู่รักเพศเดียวกันหรือบุคคลที่มีความหลากหลายทางเพศในสังคมไทย โดยเฉพาะอย่างยิ่งเมื่อต้องเผชิญกับการเลือกปฏิบัติทางกฎหมายและนโยบายทางการเงินที่ไม่เป็นธรรม ผู้ที่มีฐานเงินเดือนสูงอาจสามารถหลีกเลี่ยงข้อจำกัดเหล่านี้ได้ เช่น การกู้สินเชื่อกัน หรือการซื้ออสังหาริมทรัพย์ด้วยเงินสด ทำให้พวกเขามีอิสระในการเลือกที่อยู่อาศัยและสร้างครอบครัวได้ตามต้องการ อย่างไรก็ตาม สำหรับผู้ที่มีรายได้น้อยหรือปานกลาง ข้อจำกัดเหล่านี้ยิ่งซ้ำเติมความยากลำบากในการสร้างครอบครัวและดำรงชีวิตอย่างมีคุณภาพ สถานการณ์นี้สะท้อนให้เห็นถึงความเหลื่อมล้ำทางเศรษฐกิจที่ซ้อนทับกับการเลือกปฏิบัติทางเพศ ซึ่งจำกัดโอกาสและทางเลือกของคนที่มีความหลากหลายทางเพศที่มีฐานะยากจนหรือปานกลาง ในขณะที่คนที่มีฐานะดีกว่าสามารถ "ซื้อ" อิสรภาพและความเท่าเทียมได้ (พิมลวรรณ อัครภักดี, 2558)

“การจัดการกับภาระหนี้สิน ในช่วงแรกเลือกที่จะปล่อยเช่าก่อน แต่ระหว่างที่เราปล่อยเช่า เราก็จัดการว่ารายรับที่เข้ามา ก็พยายามปิดเงินต้นในมันลดลง และหาแนวทางที่จะปิดยอดให้เร็วที่สุด กว่าที่ธนาคารกำหนดมาให้เรา” (ผู้ให้สัมภาษณ์คนที่ 4) วิธีการผู้ให้สัมภาษณ์คนที่ 4 นั้นเป็นการวางแผนทางการเงินเพื่ออนาคตโดยการนำกำไรจากค่าเช่าไปปิดยอดสินเชื่อเงินต้นของที่อยู่อาศัยที่กู้เพื่อลดการเกิดดอกเบี้ยจากสถาบันการเงินและการธนาคาร ผู้ให้สัมภาษณ์คนที่ 4 ได้เล่าถึงช่วงเวลาที่ต้องไปพูดคุยกับคู่รักของตนเมื่อตกอยู่รักสถานะการณ์ที่ธนาคารไม่สามารถปล่อยกู้ในลักษณะการกู้เดี่ยวเนื่องจากความสามารถในการผ่อนชำระเมื่อคิดคำนวณจากฐานรายได้ที่มาจากงานประจำว่า

มันผิดแผนนะ เพราะตอนแรกที่คำนวณวงเงินมันสามารถยื่นกู้คนเดียวได้ แต่ในระหว่างช่วงที่กู้นั้นเป็นช่วงที่ดอกเบี้ยบ้านกำลังขึ้น สุดท้ายก็ไม่สามารถกู้คนเดียวได้เลยต้องไปจบที่การกู้ร่วม มันก็ค่อนข้างอึดอัดใจนะ ตรงที่เราต้องไปหาผู้กู้รวมมา มันเป็นเรื่องที่ถูกละหลุเหมือนกัน เพราะเราคนเดียวไม่ผ่าน แต่เราก็อยากได้บ้านไง ซึ่งเราก็ไม่มั่นใจว่าจริง ๆ แล้วคนที่เราหาเวลานั้นเขาจะเต็มใจที่จะกู้ร่วมกับเราไหม ผู้กู้รวมที่ต้องหามาเพิ่ม ถึงแม้จะเป็นคู่รักกัน แต่เขาก็มีความกังวล เพราะเขามีแผนที่จะกู้ซื้อบ้านอยู่แล้วเหมือนกัน ในอนาคต (ผู้ให้สัมภาษณ์คนที่ 4)

ผู้ให้สัมภาษณ์คนที่ 4 ต้องการกู้สินเชื่อกับที่อยู่อาศัยเพียงคนเดียว แต่ด้วยความสามารถในการชำระหนี้ที่ไม่เพียงพอ ประกอบกับอัตราดอกเบี้ยที่ปรับตัวสูงขึ้น ทำให้เธอไม่สามารถกู้ได้ตามลำพัง จึงจำเป็นต้องขอให้คู่รักของ

เธอมาร่วมกู้ ซึ่งทำให้เธอรู้สึกไม่สบายใจและรู้สึกว่าจะต้องพึ่งพาผู้อื่น แม้ว่าจะเป็นคู่รักของเธอก็ตาม นอกจากนี้ คู่รักของเธอก็มีความกังวลเกี่ยวกับธุรกรรมและนิติกรรมที่อาจเกิดขึ้นในอนาคต

### 3. การประกันภัย

คู่รักเพศเดียวกันต้องหาวิธีการในการสร้างหลักประกันให้กับคู่รักของตนหากเกิดเหตุไม่คาดคิดในขณะที่ไม่ได้สถานะสมรส ประกันภัยเพื่อคุ้มครองวงเงินบ้าน หรือ MRTA เป็นส่วนช่วยสร้างหลักประกันให้กับคู่รักเพศเดียวกันที่ไม่ได้มีสถานะภาพสามีภรรยาตามกฎหมายที่มองความรักต่างเพศเป็นเรื่องปกติ การประกันภัยเพื่อคุ้มครองวงเงินบ้านนั้นเสมือนเป็นองค์ประกอบหนึ่งที่สนับสนุนความรักของคู่รักเพศเดียวกัน สัญญาประกันภัยเพื่อคุ้มครองวงเงินสินเชื่อบ้านนี้เป็นทางเลือกให้กับผู้ที่ได้ทำการขอกู้สินเชื่อเพื่อที่อยู่อาศัยทุกที่เป็นลูกค้ำหรือผู้ได้รับบริการทางการเงินหรือเข้าถึงผลิตภัณฑ์ทางการเงิน ซึ่งการประกันภัยนั้นเป็นสิ่งสำคัญเพื่อเป็นหลักประกันความไม่แน่นอนของชีวิต การประกันความไม่แน่นอนนี้เองสอดคล้องกับคำให้สัมภาษณ์ของคู่รักเพศเดียวกันคู่ที่ 2 ที่ได้บอกเล่าเอาไว้ให้ผู้วิจัยได้ฟังว่า

ชีวิตคนเราไม่แน่นอน เราจึงควรหาหลักประกันอะไรที่สามารถมาดูแลคนของเราได้ภายหลังจากที่เราได้จากไปแล้ว ถ้าในวันหนึ่งเราเกิดมีปัญหากันเขาก็ต้องไปจัดการบริหารทรัพย์สินนั้นต่อไปตามความสามารถของเขาเอง (ผู้ให้สัมภาษณ์คู่ที่ 2)

ความกังวลต่อคู่รักเพศเดียวกันของตนเองนั้นคือการบริหารจัดการทรัพย์สินต่อไปที่ต้องเกิดขึ้นต่อไปเพียงลำพังเมื่อคู่รักได้จากไป อย่างไรก็ตามสำหรับคู่รักคู่นี้การกู้สินเชื่อเพื่อที่อยู่อาศัยนั้นเป็นการกู้สินเชื่อแบบเดี่ยวโดยใช้ชื่อ หรือสิทธิของคนเดียวเป็นผู้ดำเนินการกู้สินเชื่อเพื่อที่อยู่อาศัย แต่พวกเขาได้มีข้อตกลงเป็นสัญญาใจกันโดยให้อีกคนเป็นผู้ชำระวงเงินค่างวดการผ่อนสินเชื่อบ้าน ในขณะที่อีกคนหนึ่งนั้นเป็นผู้ใช้จ่ายได้จากฐานเงินเดือนประจำของตนเองเป็นหลักประกันในการของวงเงินอนุมัติจากการกู้สินเชื่อเพื่อที่อยู่อาศัย สิ่งที่กังวลนั้นคือความไม่แน่นอนในชีวิต จึงได้หาหลักประกันอะไรสักอย่างเพื่อให้หากมีการบริหารจัดการสินเชื่อเพื่อที่อยู่อาศัยได้เป็นอย่างดีเมื่อไคร่ต้องจากไป

### อภิปรายผลการศึกษา

จากการวิเคราะห์ข้อมูลและตีความข้อมูลเชิงปรากฏการณ์วิทยารวมทั้งสรุปผลจากการทำความเข้าใจประสบการณ์ ภูมิหลัง สังคมและสภาพแวดล้อมที่คู่รักเพศเดียวกัน หรือ คนที่มีความหลากหลายทางเพศผ่านประสบการณ์ที่แตกต่างและหลากหลายตามภูมิหลังของแต่ละบุคคลมานั้นทำให้สามารถอภิปรายผลได้ว่ามีความ

สอดคล้องกับทฤษฎีการเลือกปฏิบัติ (Discrimination) และความเชื่อแบบบรรทัดฐานรักต่างเพศ (Heteronormativity) ที่ฝังลึกในระบบกฎหมายและสังคมซึ่งส่งผลต่อคู่รักเพศเดียวกันในประเด็นทั้ง 3 ประเด็น คือ ประสบการณ์การถูกเลือกปฏิบัติด้วยเหตุทางเพศในมิติทางด้านสังคม กฎหมาย และ เศรษฐกิจ และในประเด็น ภาระหนี้สินทั้งการกู้ยืมสินเชื่อแบบร่วมกัน และแบบเดี่ยว รวมถึงการประกันภัยตามสัญญาประกันภัยเพื่อคุ้มครองวงเงินสินเชื่อเพื่อที่อยู่อาศัยนั้นต่างก็อยู่บนสมมติฐานการเลือกปฏิบัติที่แต่ละประเด็นมีความเชื่อมโยงเกี่ยวกันกัน และไม่สามารถแยกออกจากกันได้อย่างมีนัยยะสำคัญ ซึ่งเป็นการละเมิดหลักการไม่เลือกปฏิบัติตามข้อ 2 ของปฏิญญาสากลว่าด้วยสิทธิมนุษยชน (UDHR) ในกรณีของคู่รักเพศเดียวกันหรือที่มีความหลากหลายทางเพศเกิดขึ้นเมื่อถูกปฏิเสธสิทธิและเสรีภาพที่พึงมีพึงได้เพียงเพราะเหตุแห่งเพศหรืออัตลักษณ์ทางเพศที่แตกต่างจากกลุ่มคนส่วนใหญ่หรือต่างจากที่รัฐรับรอง

## บทสรุป

การที่คู่รักเหล่านี้ไม่ได้เป็นคู่รักต่างเพศทำให้ประสบเจอกับการกีดกันจากการเข้าถึงหรือได้รับสิ่งที่ควรจะได้ในฐานะมนุษย์ ไม่ว่าจะจากคนในครอบครัว สังคมรอบข้าง หรือแม้กระทั่งผู้ที่มีความสัมพันธ์ทางเศรษฐกิจด้วย โดยเฉพาะสถานภาพสามีภรรยาในการกู้ยืมสินเชื่อ คู่รักเพศเดียวกันจะเลือกพื้นที่ปลอดภัยเป็นทางออกในการใช้ชีวิตและประกอบสร้างครอบครัวร่วมกันด้วยการซื้อสังหาริมทรัพย์เพื่อใช้เป็นพื้นที่ปลอดภัยสำหรับรักกลับ ๆ บทบัญญัติตามประมวลกฎหมายแพ่งและพาณิชย์ มาตรา 1448 บุคคลเพศชายและเพศหญิงเท่านั้นยังคงเป็นอุปสรรคและปัญหาต่อคู่รักเพศเดียวกัน หนี้สินที่เกิดจากกู้ยืมสินเชื่อเพื่อที่อยู่อาศัยนั้นเปรียบเสมือนหนี้ทั้งชีวิตที่เกิดจากวงเงินหนี้ที่สูงและระยะเวลาการผ่อนชำระที่ยาวนาน คู่รักเพศเดียวกันต้องหาวิธีการในการสร้างหลักประกันให้กับคู่รักของตนหากเกิดเหตุไม่คาดคิดในขณะที่ไม่มีได้สถานะสมรส ประกันภัยเพื่อคุ้มครองวงเงินบ้าน หรือ MRTA เป็นส่วนช่วยสร้างหลักประกันให้กับคู่รักเพศเดียวกันที่ไม่ได้มีสถานภาพสามีภรรยาตามกฎหมายที่มองความรักต่างเพศเป็นเรื่องปกติ นอกจากนี้องค์ความรู้ใหม่ในประเด็นสิทธิมนุษยชนคือการกู้ยืมสินเชื่อเพื่อที่อยู่อาศัยนั้นเป็นสิทธิที่ต้องจ่าย (Pay for the right to own property) ซึ่งการเข้าถึงสิทธิด้วยการเป็นเจ้าของในที่อยู่อาศัยตามที่บัญญัติไว้ใน มาตรา 17 ของปฏิญญาสากลว่าด้วยสิทธิ จึงทำให้การเข้าถึงสิทธิในมาตรา 17 นั้นไม่ใช่สิทธิที่เกิดขึ้นโดยธรรมชาติ แต่เป็นสิทธิที่ต้องมีการจ่ายหรือชำระราคาในทรัพย์สินเสียก่อนมนุษย์จึงจะสามารถเข้าถึงสิทธิที่จะเป็นเจ้าของทรัพย์สินโดยตนเองและโดยร่วมกับผู้อื่น



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